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Durham, North Carolina

# **Application of the UNHCR's "Ceased Circumstances" Cessation Clauses to the Rwandan Refugee Crisis**

Jeline Rabideau

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Under the supervision of Professor Frances Hasso, International Comparative Studies

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## **Abstract**

Over one hundred thousand Rwandans are currently living abroad as refugees, mostly in the nearby countries of east and central Africa. The Rwandan government, under the authoritarian leadership of President Paul Kagame, is working to convince both its people and the powerful international donor community that Rwanda has recovered, that it has reconciled, and that it is now safe for refugees to return. In October of 2009 the United Nations' refugee agency, the UNHCR, issued a recommendation that its "ceased circumstances" cessation clauses—Chapter I(C), clauses (5) and (6) of the organization's *Convention*—be invoked with respect to these Rwandan refugees. These provisions allow the UN and refugee asylum countries to determine when the reasons for a particular refugee crisis have ended. In July of this year, all remaining Rwandan refugees will lose their group refugee status and the legal protection and benefits this status carries. Many of them will be forced to repatriate. Citing the crimes of Kagame's military forces both during and after the 1994 Genocide, as well as the repressive political conditions the country continues to experience today, Rwandan refugees are concerned that a forced return will mean exposure to very real and continued fears and dangers. Confronted by both this possibility and by the entirety of their lives and experiences in exile, these refugees must continually renegotiate their notions of "home" and "belonging."

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## Abbreviations

AI	Amnesty International
ARV	Anti-Retroviral
DRC	Democratic Republic of the Congo
EAC	East African Community
FAR	<i>Forces Armées Rwandaises</i> (Rwandan Armed Forces)
FDLR	<i>Forces Démocratique de Libération du Rwanda</i> (Democratic Forces for the Liberation of Rwanda)
ICTR	International Criminal Tribunal for Rwanda
MIDIMAR	Ministry of Disaster Management and Refugee Affairs
MININFRA	Ministry of Infrastructure
MINISANTE	Ministry of Health
MRND	<i>Mouvement Républicain National pour la Démocratie et le Développement</i> (National Republican Movement for Democracy and Development)
OAU	Organization of African Unity
ODA	Overseas Development Assistance
PARMEHUTU	<i>Parti du Mouvement de l'émancipation Hutu</i> (Party for the Movement of Hutu Liberation)
RPF	Rwandan Patriotic Front
RPA	Rwandan Patriotic Army
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council
WFP	World Food Programme

## Introduction

*Everyone I knew is now dead. Why should I go back? What would I go back for? If I was there I would think of them, of all those people I love who I saw killed. I still hear them dying—now, as I'm talking to you, I hear them. I cannot go back to Rwanda.*

~Rosine, Rwandan Refugee, Nakivaale Refugee Settlement

Rwanda's 1994 Genocide left a country in ruins. A hundred days of terror forged deep physical scars and very tangible destruction: one million people murdered, a quarter of a million women widowed, as many raped, one hundred thousand children orphaned or lost. Roads and infrastructure were destroyed, the streets lined with rotting corpses, livestock and crops ruined, and the economy lay devastated.<sup>1</sup>

But the wounds were not only physical and the damage not always measurable or quantifiable. The horrors of the Genocide instilled a deep-seated fear in people on both sides of the disaster, victims and perpetrators, Tutsi and Hutu.<sup>2</sup> Millions were uprooted by this fear and the violence it inspired. Even today, nineteen long years after the victory of the Rwandan Patriotic Front that ended the conflict, Rwandans continue to leave the country. Over one hundred thousand Rwandans are currently living abroad as refugees, mostly in nearby east and central African countries.<sup>3</sup> Some fled decades ago, forced out by the persecution of Tutsi and moderate Hutu that was widespread even before the 1994 Genocide. Many left during and immediately after the violence of Genocide. And still others have escaped in the years that followed, as a reaction to Rwanda's post-genocidal political conditions rather than the Genocide itself.

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<sup>1</sup> Linda Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* (New York, NY: Zed Books, 2009), 247-250; Christopher W. Mullins, "'He Would Kill Me With His Penis': Genocidal Rape in Rwanda as a State Crime," *Critical Criminology* 17, no. 1 (2009): 16.

<sup>2</sup> Phuong N. Pham, Harvey M. Weinstein and Timothy Longman, "Trauma and PTSD Symptoms in Rwanda: Implications for Attitudes Toward Justice and Reconciliation," *Journal of the American Medical Association* 292, no. 5 (2004): 602, 610-612.

<sup>3</sup> UNHCR, *UNHCR Statistical Online Population Database: Rwanda Statistics* (Geneva: United Nations, 2012); Interviews.

Recent joint action by the Rwandan government, the UN High Commissioner for Refugees, and asylum countries has moved these refugees' situations to the forefront of news and policy. In October 2009 the United Nations' refugee agency issued a recommendation that its cessation clauses—Chapter II, A (ii), clauses (e) and (f) of the UNHCR's *Statute*<sup>4</sup>—be invoked with respect to Rwandans who became refugees before 1999.<sup>5</sup> These provisions allow the UN and refugee asylum countries to determine when the reasons for a particular refugee crisis have ended. In this case, the UNHCR, acting in response to the campaigns and pressure of the Rwandan government, has decided that the conditions within Rwanda that led to massive flight of Rwandans throughout the twentieth century have ceased to exist, and that it is now safe for them to return. In June 2013, all remaining Rwandans are scheduled to lose their group refugee status and the legal protection and benefits this status carries. Many will be forced to repatriate against their will.<sup>6</sup> This decision will have enormous repercussions on the lives of individual refugees. Its impact can already be felt—efforts to promote voluntary repatriation and to sensitize refugees to the possibility of coerced return are well underway. During my initial visit to the southern Uganda Nakivaale Refugee Settlement in 2011, and when I returned in summer 2012 to listen to their stories, Rwandans were consumed by anticipation of their forced return. Often our conversations gravitated towards their fear,

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<sup>4</sup> UNHCR, *Statute of the Office of the United Nations high Commissioner for Refugees*, General Assembly Resolution 428 (V) (Geneva: United Nations, 1950).

<sup>5</sup> UNHCR, *Implementation of the Comprehensive Strategy for the Rwandan Refugee Situation, including UNHCR's recommendations on the applicability of the "ceased circumstances" cessation clauses*, (Geneva: United Nations High Commissioner for Refugees, 2011).

<sup>6</sup> Marissa Elizabeth Cwik, "Forced to Flee and Forced to Repatriate? How the Cessation Clause of Article 1C (5) and (6) of the 1951 Refugee Convention Operates in International Law and Practice," *Vanderbilt Journal of Transnational Law* 44 (2011): 711-743.



hope, or expectations of cessation, and how their lives will change once cessation is fully enforced.

While some transnational human rights organizations have published critical reports and recommendations about implementation of the UNHCR cessation clauses in relation to Rwandan refugees, my thesis is intended to contribute to a currently limited academic scholarship on the impending forced repatriation of Rwandans recommended by the UNHCR. The topic of cessation of refugee status more generally remains under-theorized and under-explored. Still less has been said about the political, psychological, economic, social, and other effects such decisions have on the people forced to return. A handful of scholars, including Marissa Cwik and Todd Howland,<sup>7</sup> have looked specifically at the cessation clauses and their impending application to Rwandan refugees, though they focus heavily on the legal dimensions of these decisions and their validity under international law. David Newbury conducted a fascinating but brief analysis of identity and social belonging among Rwandan refugees,<sup>8</sup> though not in the context of impending cessation.

By invoking the cessation clauses, the United Nations and the governments of states host to Rwandan refugees are reflecting their interpretations and understandings of positive changes in the political and social climate of Rwanda, as well as their desires to alleviate the financial, political, and social hardships of hosting large populations of

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<sup>7</sup> See Marissa Elizabeth Cwik, "Forced to Flee and Forced to Repatriate? How the Cessation Clause of Article 1C (5) and (6) of the 1951 Refugee Convention Operates in International Law and Practice," *Vanderbilt Journal of Transnational Law* 44 (2011): 711-743; Todd Howland, "Refoulement of Rwandan Refugees: The UNHCR's Lost Opportunity to Ground Temporary Refuge in Human Rights Law," *U.C. Davis Journal of International Law and Policy* 4 (1998): 73-101.

<sup>8</sup> David Newbury, "Returning Refugees: Four Historical Patterns of "Coming Home" to Rwanda," *Society for the Comparative Study of Society and History*, 2005: 252-285.

refugees. The threat of mandatory repatriation, of cessation of refugee status, reflects both international conventions and the decisions of financially- and politically- strained countries of asylum. It has compelled Rwandan refugees to renegotiate and reevaluate their notions of “home” and “belonging.” For some Rwandans, both returnees and refugees, an attachment to the physical state of Rwanda functions as a primary marker of their identity. Others reject this attachment, believing that they no longer belong in Rwanda because it was the source of their pain or fear. None have found or created a kind of “home” in Nakivaale, the refugee settlement, and as a result many live in a state of emotional and legal suspense. The government of Rwanda is eager to prove to its foreign donors that the country has made strides towards a successful recovery. It has made real progress in rebuilding infrastructures, improving health care, and expanding access to education. These tangible recovery efforts have not, however, prompted *reconciliation* in the sense of individual healing, forgiveness, reparation of past wrongs, or the establishment of a stable, long-lasting peace. Under President Kagame’s rule, some Rwandans still struggle to secure basic human rights such as freedom, governmental transparency, and personal safety. The government’s refusal to recognize its own crimes and wrongdoings and its increasing intolerance for political dissent are indicative of a Rwanda not yet ready to welcome “home” those refugees it has driven into exile.

### **The Problem of “Genocide”**

The violence of 1994 Rwanda represents one of the greatest human-driven tragedies of recorded history. This conflict differed from Rwanda’s previous institutionalized violences in both scale and purpose. While the massacres that began in Rwanda in 1959 and continued and intensified in the years leading up to 1994 were

perpetrated by one ethnic group against the other, they were not genocide. Under the United Nation's *Convention on the Prevention and Punishment of the Crime of Genocide*, adopted in 1948, genocide occurs if two conditions are fulfilled—one physical, one mental—and are applied to a particular group. The physical component, or *actus rea*, involves committing any one of five genocidal acts<sup>9</sup> to or against a defined national, ethnic, racial, or religious group. The mental component, or *mens rea*, describes intent to commit such acts against such defined groups. For a situation to be considered genocide, these acts must be undertaken for the purpose of destroying the defined group in whole or part.

The question of a targeted, defined group is somewhat difficult in Rwanda. Moderate Hutu, as well as Tutsi, were targeted by the country's Hutu-dominated government military, the Armed Forces of Rwanda, or FAR, by an elite "death squad" network of President Habyarimana's supporters known as the *akazu*, as well as by the government-supported, largely Hutu militia group, the *interahamwe*. Killings and other violences were also perpetrated by the invading Rwandan Patriotic Front, or RPF.<sup>10</sup> Because *political or ideological identity* is not one of the group categorizations provided by the Convention on Genocide, in order for the UN, state governments, and other actors to recognize a genocide in Rwanda, they would have to find that the conflict was to bring about the destruction or elimination of the Tutsi *ethnic* group, not the destruction of the political opposition of the rebel RPF to the ruling party, Habyarimana's National Republican Movement for Democracy and Development, or MRND. In the 1994

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<sup>9</sup> United Nations, *Convention on the Prevention and Punishment of the Crime of Genocide*, (Geneva: The United Nations, 1948), Article II, (a)-(e).

<sup>10</sup> Christian Davenport and Allan C. Stam, "What Really Happened in Rwanda?," *Pacific Standard*, October 6, 2009; Filip Reyntjens, "Rwanda: Genocide and Beyond," *Journal of Refugee Studies* 9, no. 3 (1996): 242-243.

Rwandan case, the *actus rea* component of genocide definition is undeniably present: massacres by machete, mostly of the Tutsi, occurred on a grand scale all across the country.<sup>11</sup> This violates Article II (a) and (b) of the Convention: killing members of a group and causing members of a group bodily or mental harm. The *mens rea* factor is more subjective, and is what has caused the United Nations and other actors to hesitate in recognizing that the conflict occurring was indeed “genocide.” These actors would need to determine that the massacres were taking place because the perpetrators were aiming to fully or partially eliminate the Tutsi ethnic group.<sup>12</sup>

What happened in 1994 Rwanda is neither straightforward nor clear-cut. Both Hutu and Tutsi were killed, and both Hutu and Tutsi were killers. As discussed in Chapter 1, the Hutu and Tutsi categories are themselves problematic—once flexible labels of social class or markers of wealth and political power, they became reconstituted as rigid ethnicities under colonial rule. The violence was immense, the destruction total and complete: estimates of the dead range between 10,000 and 50,000 Hutu, and between 500,000 and one million Tutsi. Children were frequent targets. The violence was perpetrated by hundreds of thousands—by the RPF, the FAR, the *interahamwe*, the *akazu*, and by civilians—and millions witnessed it.<sup>13</sup> Hunger and starvation were rampant.<sup>14</sup> Violence began in Kigali, the capital, and by the end of the hundred days of terror only one sixth of the city’s population remained, the rest either dead or displaced, along with most of the country’s educated elite. Nearly all teachers were gone. In the

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<sup>11</sup> Philip Verwimp, “Machetes and Firearms: The Organization of Massacres in Rwanda,” *Journal of Peace Research* 43, no. 1 (2006): 7, 19.

<sup>12</sup> Melvern, *A People Betrayed*, 251-252; Eugenia Zorbas, “Reconciliation in Post-Genocide Rwanda,” *African Journal of Legal Studies* 1, no. 1 (2004): 31-32.

<sup>13</sup> Mamdani, *When Victims Become Killers*, 5-6; Davenport and Stam, “What Really Happened in Rwanda?”

<sup>14</sup> *Ibid.*, 203.

whole country, six judges and ten lawyers remained.<sup>15</sup> Almost a quarter of Rwanda's surviving population meets the symptom criteria for Post-Traumatic Stress Disorder, directly as a result of experiencing these violences.<sup>16</sup>

This devastation took place within the context of an ongoing civil war. Starting in 1990, the rebel RPF army of largely "Tutsi" refugees launched its first small-scale invasions of and attacks on Rwanda, and over the next three years, it seized control of significant swathes of Rwandan territory. By February 1993, nearly one million Hutu peasants had been displaced by RPF actions.<sup>17</sup> Hutu power movements strengthened in response to these Tutsi-perpetrated violences.<sup>18</sup> Labeling what happened in Rwanda in 1994 "genocide" is complicated by the fact that both "Hutu"-dominated and "Tutsi"-dominated militias and groups were actively battling each other and implicated in producing terror and death. Scholars of Rwanda have voiced their concerns regarding the term's complicated application, stating, "Both sides of the armed conflict had perpetrated serious breaches of international humanitarian law and crimes against humanity,"<sup>19</sup> and the "Rwandan crisis presents many elements of a classic civil war."<sup>20</sup> Hutu-dominated groups—the MRND government's FAR and *akazu*, the *interahamwe*—were responsible for most of the Tutsi deaths, and the Tutsi RPF for many of the Hutu killings. But identity categories are hard to distinguish, and groups often killed indiscriminately. Both Hutu

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<sup>15</sup> Melvern, *A People Betrayed*, 247.

<sup>16</sup> Pham et al., *Trauma and PTSD Symptoms in Rwanda*, 602.

<sup>17</sup> Mamdani, *When Victims Become Killers*, 186-187.

<sup>18</sup> *Ibid.*, 189.

<sup>19</sup> Melvern, *A People Betrayed*, 253.

<sup>20</sup> William A. Schabas, "Justice, Democracy, and Impunity in Post-genocide Rwanda: Searching for Solutions to Impossible Problems," *Criminal Law Forum* 7, no. 3 (1996): 525.

and Tutsi took advantage of the violence and chaos to settle old scores—political, financial, and personal—through murder.<sup>21</sup>

Though both Hutu and Tutsi were targeted and killed by the government forces—the FAR and *akazu*—and government supported forces—the *interahamwe*, those identified as Tutsi or sympathetic or collaborating with them, were disproportionately targeted and victimized. Tutsi were constituted as the enemy by Rwanda’s pre-1994 ruling party, the MRND, and some Hutu victims were seen as their sympathizing accomplices. Importantly, violence towards the Tutsi was intended to bring about their extermination or elimination, motivated by institutionalized “ethnic hatred” and “racist propaganda.” Violence directed at Hutu populations was not.<sup>22</sup> There is, therefore, a specific ethnic target of the violences, the necessary *mens rea* component of the United Nations’ “genocide” definition. It is with this reasoning that the UN decided to recognize the events of 1994 Rwanda as “genocide.”<sup>23</sup> Not surprisingly, the Rwandan government has done the same. I discuss later how the RPF uses the “genocide” label without recognizing any of its own complicity in the violences during and predating 1994. Some of my interviewees referred to these violences as “what happened in 1994,” or simply with the date, “1994” and others used the word “genocide” to describe the events. I have adopted the term *Genocide* (uppercase) in this paper in reference to the events of 1994 Rwanda in light of its wide usage and because the victims were disproportionately Tutsi. I use it with the understanding that this terror was situated within a larger context of civil war, and that the lines between victim and perpetrator, Tutsi and Hutu, were often messy

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<sup>21</sup> Reyntjens, “Rwanda: Genocide and Beyond,” 242-243, 246-248; Davenport and Stam, “What Really Happened in Rwanda?”

<sup>22</sup> Mamdani, *When Victims Become Killers*, 194-195; Zorbas, “Reconciliation in Post-Genocide Rwanda,” 31-32; Melvern, *A People Betrayed*, 254-256.

<sup>23</sup> Melvern, *A People Betrayed*, 253-254.

and blurred. I use the lowercase “genocide” or “genocidal” to describe this category of crime more generally.

### **Research Choices and Contexts**

I first stumbled upon the Rwandan refugee crisis in the fall of 2011 as a junior at Duke University, when I spent a semester living and studying in Kigali, Rwanda’s capital. At the time, my academic focus was on African post-conflict restoration and recovery processes more generally, a subject I’d become fascinated by after a particularly engaging seminar class during my freshman year. I had not yet considered the problems and challenges of refugees. The Rwandan government is remarkably adept at presenting a front of great social progress and rapid modernization to the international community, and initially, I was quite impressed by this cover. As I made Kigali my temporary home, I was able to enjoy a comforting sense of security. I wandered the streets and the hills, often alone, feeling completely confident and assured. After all the cautions and advice from well-intentioned friends and family, I felt safer here—in the heart of Africa—than at home in the United States. Rwandans are lucky, I thought, to have this.

Slowly, I gained a better understanding of this beautiful country and the people who had welcomed me into their homes and lives. Rather than answering my questions, though, this process prompted me to ask new ones. The armed, uniformed soldiers, who stand every few yards along Kigali’s roads, started to make me feel uneasy instead of protected. Deflected conversation topics began to seem more uncomfortable than polite. I visited Genocide memorials, walked through churches and schools filled with rooms of scattered bones and bodies frozen forever in terror. As I grappled with the magnitude of tragedy and horror that Rwandans faced in 1994, I was struck by the impossibility of

what the country claims to have done—to have moved from total devastation to near-complete recovery and reconciliation in less than two decades. Many of my newfound uncertainties centered on the reasons for Rwanda’s ongoing refugee crisis. A brief trip to neighboring Uganda, where I visited a refugee settlement, Nakivale, and spoke with Rwandans who continue to feel that they are unwelcome and unsafe in Rwanda, brought these questions into even sharper relief. I was unprepared for their raw hopelessness and the intensity of their fears. Their stories captivated me.

This thesis examines the “making” of Rwanda’s refugees in its twentieth-century and more recent history; the factors influencing the UNHCR’s recommendation to implement the cessation clauses for Rwandan refugees “made” before 1999; refugee responses to being compelled to return “home” irrespective of their desires, fears, and traumas; the ways in which refugees and returnees described and understood home and belonging; and the Rwandan political context to which Rwandans are being forced to return. My investigation draws on a variety of sources: The first category of sources includes documents, laws, statements, visual material, and official and unofficial discourses (including “news”) produced or sponsored by the current Rwandan government; statements from nearby asylum states in east and central Africa; reports and recommendations of human rights organizations such as Amnesty International and Human Rights Watch; and most importantly, documents and statements of the UNHCR and other UN organizations. With the exception of the human rights reports, which I use for the independent evidence and analysis they may offer, the remaining primary source material is read in two ways: as information and as representations that frequently hide as much as they tell. The second largest source of primary material comes from interviews,



field-notes, and observations I gathered while in Rwanda and southern Uganda (Mbarara) in fall 2011 and summer 2012. Interviewees and informants included refugees, returnees, government officials, policy-makers, NGO and UNHCR officials, and workers in Rwanda's reintegration offices. For such sources, I analyze phrasings and silences as well as what people reported or how they answered questions. The third substantive category of sources is relevant peer-reviewed scholarship related to the UNHCR, Rwandan history, Rwandan refugees, and genocide.

I faced a few challenges that limited the content and scope of my research. I found the first when speaking with both officials and former refugees in Kigali. The Rwandan government has a strong, constant presence in the lives of all Rwandans. This presence is certainly visible—streets lined with soldiers, government-printed billboards, and state-run news programs and television shows. Flags, advertisements, and pictures and posters of the nation's president, Paul Kagame, are ubiquitous. But the government also has a less visible impact: during the semester I spent studying in Rwanda in fall 2011, one of my professors confessed to me, when we were both safely outside the country, that he feared our classroom space in Kigali could be bugged. Similarly, my host family during both stays in Rwanda whispered cautions to me on multiple occasions: “you know you should not ask those questions;” “really, you cannot say that;” and “be careful, my sister.” Such pervasive government presence and intrusion left a marked influence on the words and silences of my interviewees. Some were very careful only to parrot government rhetoric. Certain phrases and keywords were repeated to me, verbatim, dozens of times. Other topics were completely avoided. I learned as much from the choices my interviewees

made in *how* they said things and what they chose *not* to say, as I did from the interview content.

Most, though not all, of the refugees I spoke with in the Nakivaale Refugee Settlement did not seem confined by these same inhibitions. With them, though, I faced other challenges. One was language. In Kigali, the majority of my interviewees spoke English or French, and we were able to converse easily in one or both languages. With the refugees, I was able to conduct some interviews in English or French, but for Kinyarwanda speakers, I required a translator. Though I am confident that my translator, a friend of mine, provided me with accurate renderings of our conversations—I speak and understand enough Kinyarwanda to comprehend the broad strokes of a dialogue and to know when to ask for better, different, or more detailed translations—it was easier for me to establish baseline levels of trust and openness in situations where I did not need an intermediary. To this end, my identity—young, female student from the United States—worked to my advantage. I was approachable and unthreatening. I do feel I was able to draw meaningful stories and histories from each interview relationship. These stories, and the people who told them, are the motivation for and heart of this thesis project.

## Chapter 1: The Making and Unmaking of Rwandan Refugees

The contemporary Rwandan refugee crisis traces its origins to the waves of Tutsi who first fled the country in 1959, in fear of politically-motivated mostly Hutu perpetrated massacres and violence. Most of these initial refugees and the Rwandans who fled in the decades since have been granted official refugee status by their asylum states based on international conventions. These conventions include the 1951 United Nations High Commission for Refugees (UNHCR) *Convention Relating to the Status of Refugees* and the 1969 Organization of African Unity (OAU) *Convention Governing the Specific Aspects of Refugee Problems in Africa*. Both conventions provide internationally-accepted definitions of the terms of refugee status and detail the rights and protections such status provides. Though they play a large role, the decision to award refugee or asylum status is not solely a product of these universal legal protocols. It is also heavily dependent on nuanced political agendas and complex state and regional histories.

In the Rwandan case, dislocation and war have been produced partly by the colonial and post-colonial rigidification of social distinctions between Hutu and Tutsi. The ability of Rwandan refugees to determine their fates is complicated by the immense economic and other burdens shouldered by countries of asylum and the desire of the ruling Rwandan government to repatriate all Rwandan refugees. By invoking the “ceased circumstances” cessation clauses, the UNHCR, OAU, and countries of asylum jeopardize this refugee status and its attached rights, forcing them to return to Rwanda, irrespective of whether they want to return or if the country is safe for their return.

## The Refugee in International Conventions and State Practices

The origin of the term “refugee” as it is used internationally today can be traced to the formation of the Office of the United Nations High Commissioner for Refugees (UNHCR) at the end of the Second World War. The organization’s 1950 *Statute* included an initial definition<sup>24</sup> that was revised slightly in the 1951 UNHCR *Convention Relating to the Status of Refugees*. The *Convention* defines a “refugee” as any person considered such under a number of prior international agreements,<sup>25</sup> as well as any person who,

as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.  
(UNHCR *Convention* Article I, A (ii))

Generally speaking, a refugee is a non-criminal forced to flee across an international boundary (or boundaries) by either state persecution or fear of the same. The temporal constraints listed in the 1951 *Convention*, as well as a geographic restriction of the status to Europeans, were removed by a subsequent UNHCR publication—the 1967 *Protocol Relating to the Status of Refugees*.

Later documents produced by regional organizations added to this definition of a “refugee.” Most relevant for my purposes is the *Convention Governing the Specific Aspects of Refugee Problems in Africa*, a document adopted by the OAU in 1969, which

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<sup>24</sup> Full text of this initial definition and its subsequent modifications can be found in the Appendix.

<sup>25</sup> As listed in the UNHCR’s *Convention Relating to the Status of Refugees*, Article I, A(i), these agreements consist of the United Nations Arrangements of 12 May 1926 and 30 June 1928, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939, and the Constitution of the International Refugee Organization, the forerunner to the UNHCR.

came into force in 1974.<sup>26</sup> In this document, the OAU reproduces the definition of a refugee in the UNHCR's 1951 *Convention*, amended in 1967, and adds:

[T]he term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.  
(OAU *Convention Governing the Specific Aspects of Refugee Problems in Africa* Article I, 2)

This additional provision reflects continental struggles for liberation and independence from colonialism through much of the twentieth century. Expanding the refugee definition to include those displaced by "events seriously disturbing public order" also allows for the inclusion of "refugees from territories still under colonial or minority racist rule."<sup>27</sup> The addition represents the "first time" that "the refugee protection system directly addresses the causes of refugee exodus, by focusing on the objective conditions in the country of origin."<sup>28</sup>

Though it is interstate organizations such as the UNHCR and the OAU that define the concept and legal term "refugee," it is their members—individual states that play host to asylum seekers—who ultimately decide if such status will be awarded to non-citizen individuals or groups. State governments have their own protocols, qualifications, and procedures for determining eligibility and awarding refugee status, based on their interpretation and application of international refugee conventions and their own state

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<sup>26</sup> The Organization of African Unity, today called the African Union or AU, is an intergovernmental organization founded in 1963 by 32 states on the African continent. Today, it includes 54 countries—every African nation except Morocco. See the organization's website, [www.au.int](http://www.au.int).

<sup>27</sup> George Okoth-Obbo, "Thirty Years On: A Legal Review of the 1969 Refugee Convention Governing the Specific Aspects of Refugee Problems in Africa," *Refugee Survey Quarterly* 20, no. 1 (2001): 112.

<sup>28</sup> M. R. Rwelamira, "Two Decades of the 1969 OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa," *International Journal of Refugee Law*, 1989: 558.

laws and policies. State apparatuses have the most flexibility in awarding refugee status when they are considering asylum seekers on an individual rather than *prima facie* basis. They also have more control when asylum seekers attempt to establish themselves in cities and other urban areas, rather than in camps or settlements that are partially sponsored or run by the UNHCR or other intergovernmental organizations. Often, the personnel making status determinations have received little or no legal training, and their decisions as to whether or not to award refugee status can be highly subjective.<sup>29</sup> Similarly, legal decisions as to whether an entire group should be treated as a category of refugee are often related to the political, ideological, or economic interests of states.<sup>30</sup>

The granting of refugee status—legal, temporary residence in a country of asylum—by state governments is important for a number of reasons. Initially, such status is supposed to prevent prosecution for illegal immigration or residency and allow people to gain employment legally. Other rights attached to refugee status, according to the UNHCR, should be equal treatment to nationals with respect to education, public relief and assistance, social security, and labor regulations; free movement within their country of asylum; and temporary travel documents to facilitate movement to other countries. Refugees should also be protected from arbitrary expulsion, or *refoulement*, according to

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<sup>29</sup> See Martin Jones, "Refugee status determination: three challenges," *Forced Migration Review*, no. 32 (2009): 53-54; Andrew E. Shacknove, "Who is a refugee?," *Ethics* 95, no. 2 (1985): 283; Alice Edwards, "Refugee Status Determination in Africa," *African Journal of International and Comparative Law* 14 (2006): 205, 207.

<sup>30</sup> An example of how this type of state decision-making process can affect whole groups of refugees is the "wet foot, dry foot" policy of the United States, embodied in its 1966 Cuban Refugee Adjustment Act (public law 89-732). This law was a product of the cold war, an opportunity for Cubans living under communist rule to enjoy a quick path to legality in the United States regardless of how they entered the country, or for what reasons they fled. See Matthew A. Pingeton, "United States Immigration Policy: Detaining Cuban Refugees Taken from the Sea," *Journal of Transnational Law and Policy*, 1999: 331-332.

UNHCR conventions.<sup>31</sup> In practice, state governments struggle to meet the requirements outlined by the UNHCR and often are unable to provide refugees with the rights and protections such status should offer. Even the United States, a country with vast economic resources and a developed legal system, has refused to provide its refugees with these rights. This neglect was sanctioned by a decision of the U.S. Supreme Court, which ruled that refugees are not “entitled” to any of the rights detailed by the UNHCR.<sup>32</sup>

### **The Cessation of Refugee Status**

Refugee status is meant to be transitory, a temporary solution to a temporary problem. Life as a refugee is incredibly taxing, and efforts to sustain a large, poor, often traumatized foreign population can put a great deal of strain on sociopolitical and economic conditions in asylum countries. To ensure that a refugee crisis does not last longer than necessary, the international community has developed measures detailing when, why, and how refugee status can cease. Found in both the UNHCR’s 1951 *Convention Relating to the Status of Refugees* and the OAU’s 1969 *Convention Governing the Specific Aspects of Refugee Problems in Africa*, the cessation clauses allow the United Nations, in partnership with refugee asylum countries, to determine when a particular refugee crisis has ended. These clauses dictate when a particular refugee or group of refugees can no longer be characterized as such under the definitions of the term “refugee.”

In the UNHCR *Convention*, there are six general cessation clauses that fall into two broad categories: those determined by the actions of an individual refugee, and those applied because of changed circumstances in a refugee’s country of origin. Included in

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<sup>31</sup> UNHCR, *Convention*, Chapters II-V.

<sup>32</sup> James C. Hathaway and Anne K. Cusik, "Refugee Rights are not Negotiable," *Georgetown Immigration Law Journal* 14 (2000): 514.

the first group are refugees who voluntarily re-acquire a lost nationality, voluntarily acquire a new nationality, voluntarily return to the country from which they originally fled, or voluntarily benefit from the protection of the country from which they originally fled. To be invoked, all four of these clauses require voluntary, positive action on the part of an individual refugee. If a refugee knowingly takes one or more of the four mentioned actions, his or her refugee status will cease, and he or she will lose the international protection and benefits this status carries.<sup>33</sup>

The final two clauses—the ones on which this research project focuses—are known as the “ceased circumstances” cessation clauses. Unlike the first group of clauses, which cannot be implemented without the specific action of an individual refugee, this category is imposed on refugees. The United Nations and asylum countries decide when these clauses are implemented. In the UNHCR *Convention*, the text of these clauses state that a person who was once a refugee will cease to be such if

he can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; Provided that this paragraph shall not apply to a refugee falling under section A(I) [criteria to be considered a refugee] of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of his nationality;(Article 1, C(5))

Or if,

being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A(I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.  
(Article 1, C(6))

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<sup>33</sup> UNHCR, *Convention*, Chapter 1, Article 1 (C), 1-4.



In other words, the UNHCR can work with refugee asylum states to invoke the “ceased circumstances” cessation clauses if it believes that the situation is safe for a refugee or group of refugees to return to their home countries, and that their fear of return is no longer legitimate or justifiable.

The OAU document features a first group of clauses identical to the ones espoused by the UNHCR. Unlike the UNHCR *Convention*, however, the OAU text only lists one “ceased circumstances” cessation clause, which asserts that a refugee will lose his refugee status if,

he can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality. (Article 1, 4(e))

The OAU does not repeat the clause for those having no nationality, nor does it specify that individuals may raise exceptions. The UNHCR’s *Convention* does both. Though the issue of no nationality is not particularly relevant to the Rwandan context (especially because the Rwandan government is actively trying to get its citizens to return), the idea of individual exceptions to cessation is highly important for those Rwandans still reluctant to return and who are looking for a way to stay.

Besides cessation, a refugee may also lose his or her status through cancellation or revocation. It is important to note that each of these is a legally distinct process with a different set of justifications: “cancelation” involves invalidation of refugee status when the UNHCR or the country of refugee asylum determines that such status was inappropriately awarded initially—that person should never have been categorized as a refugee. “Revocation” occurs when a refugee commits a serious non-political crime or is found to have previously committed such a crime as described in the 1951 UNHCR

*Convention*. Cancellation and revocation therefore differ from cessation, since in the former situations, the refugee who once rightfully had this status loses it either through criminal action or a decision that refugee status was wrongly awarded in the first place.<sup>34</sup>

Provided that a refugee once had a real and justifiable fear of residence in his or her country of origin or nationality, there is a great need to ensure that cessation is not invoked prematurely or inappropriately. The United Nations has issued recommendations and guidelines related to implementation of cessation clauses that are designed to aid states in making such determinations. These include a description of measures appropriate to assess whether or not circumstances in the country of origin have changed sufficiently to allow for refugees' return. Change must be both "fundamental"—such as a regime change or an end to armed conflict and a return to peace—and "durable"—proven to be long-lasting, especially if change in rule took place violently, as it did in Rwanda. Returning refugees must be guaranteed physical safety, a functioning government and justice system, and adequate basic human rights. Those refugees with "compelling" personal reasons should be exempt from the cessation clauses, according to the UNHCR. These include refugees who were former prisoners and those who witnessed violence or suffer from psychological trauma. Individual asylum countries are largely responsible for making these determinations, however,<sup>35</sup> subjecting refugees to vastly different standards and decision-making processes that may or may not be fair and rigorous in their assessments and determinations. Asylum countries will often not present refugees with these alternatives to cessation, instead forcing on them a repatriation that is, in a legal

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<sup>34</sup> UNHCR, *Note on the Cancellation of Refugee Status*, (Geneva: United Nations, 2004); UNHCR, *Guidelines on International Protection: Cessation of Refugee Status under Article 1c (5) and (6) of the 1951 Convention Relating to the Status of Refugees (the "Ceased Circumstances" Clauses)*, (Geneva: United Nations, 2001).

<sup>35</sup> UNHCR, *Guidelines on International Protection*, par. 8, 10-16, 20-21.

sense, “voluntary,” but that actually constitutes a “deprivation of meaningful free choice.”<sup>36</sup>

A state invoking the cessation clauses for a group of refugees within its borders undertakes a number of responsibilities, according to the UNHCR. First of all, there must be a public declaration of cessation, and refugees should be provided with information and counseling about their options. Cessation can’t take place immediately—time is needed for refugees to make arrangements, either to return to their home country or to legalize their status in their country of asylum. Host states must also give individual refugees the opportunity to appeal the cessation of their status and to gain exemption if appropriate.<sup>37</sup> Refugee host states, though, have been reluctant to offer refugees with these alternatives to repatriation. Oftentimes, their goal in making refugee status and cessation determinations is not whether or not an asylum seeker qualifies under international treaties, but whether they have the ability or resources to support them. Once granted status, refugees can be “pressured” to “choose” repatriation, so that host states are relieved of the burden of accommodating them.<sup>38</sup> Though the formal invocation of the cessation clauses for Rwandan refugees has not yet occurred, Uganda has already undertaken several actions that call into question its compliance with UNHCR’s cessation

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<sup>36</sup> Jeremy R. Tarwater, "Analysis and Case Studies of the "Ceased Circumstances" Cessation Clause of the 1951 Refugee Convention," *Georgetown Immigration Law Journal* 15 (2001): 610.

<sup>37</sup> UNHCR, *Guidelines on International Protection*, par. 25.

<sup>38</sup> Jeremy R. Tarwater, "Analysis and Case Studies of the "Ceased Circumstances" Cessation Clause of the 1951 Refugee Convention," *Georgetown Immigration Law Journal* 15 (2001): 569-570.

procedures. These include the “lack of notice, inability for individual [refugee] review, abrupt closure of camps, and destruction of homes.”<sup>39</sup>

Since the UNHCR’s formation, it has applied the “ceased circumstances” cessation clauses to refugees from fifteen separate national groups. Among the most recent refugee crises to receive this treatment are Chileans, following democratic elections and large-scale voluntary repatriations; Malawians, after their country drafted a new constitution; and Namibians, after Namibia attained independence and held elections.<sup>40</sup> In 2003, the UNHCR and state governments also collaborated to mandate the repatriation of over 500,000 Angolan refugees from the DRC, Zambia, and Namibia. Both Angolan and Namibian refugees were “deeply opposed” to these repatriation efforts, as “no sound case could be made that conditions in either Namibia or Angola had yet reached the point where state parties could validly deem their refugee status to have come to an end.” These decisions were based more on logistical, political, and financial concerns of asylum countries than on the wellbeing or safety of the refugees they were forcing to return.<sup>41</sup>

### **Origins of the Refugee Crisis in Rwanda**

The Rwandan refugee crisis began in 1959, not long after the United Nations first recognized the term in 1951. The country’s minority Tutsi, who make up about fifteen percent of the population, were often politically favored under Belgian colonialism. The majority of the population, about 84 percent, are Hutu. The use of the term “ethnic” to

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<sup>39</sup> Marissa Elizabeth Cwik, "Forced to Flee and Forced to Repatriate? How the Cessation Clause of Article 1C (5) and (6) of the 1951 Refugee Convention Operates in International Law and Practice," *Vanderbilt Journal of Transnational Law* 44 (2011): 738.

<sup>40</sup> UNHCR, *Note on Cessation Clauses*, (Geneva: United Nations, 1997), par. 32.

<sup>41</sup> James C. Hathaway, "The Rights of States to Repatriate Former Refugees," *Ohio State Journal on Dispute Resolution* 20, no. 1 (2005): 222-223.

describe Rwanda's Hutu and Tutsi peoples is hotly debated, and I employ it here purely for reasons of simplicity and convenience. Before colonization, the terms were used more as relative indicators of socioeconomic status—settled peasants, lower class, were usually Hutu, and cattle herders, high class, were usually Tutsi—rather than ethnic or cultural labels. Interaction, mobility, and marriage between and across the two groups were common. A single Rwandan could be Hutu in one context and Tutsi in another, the identities shifting as a reflection of relative situational statuses.<sup>42</sup> Under German and later Belgian rule, however, the divisions were standardized and differences were categorized and racialized. These processes were based on a number of arbitrary factors defined by the colonizers, including nose width and number of cows owned, measured and counted by the Belgian administrators. From the time of independence in 1962 until the 1994 Genocide, these group identities were further strengthened and manipulated by various Rwandan partisan leaders for political gain. Most recently, president Paul Kagame has prohibited Rwandans to self-identify along these lines, calling instead for a single, unified Rwandan people.<sup>43</sup> Though the government has undertaken these efforts to de-ethnicize the country under the pretense of promoting national unity and reconciliation, this prohibition allows it to persecute those Rwandans who continue to vocalize or spread Hutu-Tutsi categories for “divisionism.” It also helps to hide the Tutsi-dominated nature of Kagame's government. Ethnicity continues to play an important role in the lives of many Rwandans, and ignoring it brews resentment and perpetuates division.<sup>44</sup>

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<sup>42</sup> David Newbury, "Understanding Genocide," *African Studies Review* 41, no. 1 (1998): 83-86; Mahmood Mamdani, *When Victims become killers: colonialism, nativism, and the genocide in Rwanda* (Princeton, NJ: Princeton University Press, 2001), 43-88.

<sup>43</sup> See Mamdani, *When Victims become killers*, 98-103, 134-142, 266.

<sup>44</sup> Susanne Buckley-Zistel, "Nation, narration, unification? The politics of history teaching after the Rwandan genocide," *Journal of Genocide Research* 11, no. 1 (2009): 47-48.

In 1959, Hutu political groups violently revolted against the Tutsi-dominated government. Over 200 Tutsi members of the political elite were killed in insurrections that spread throughout the countryside.<sup>45</sup> Ultimately, the collective violence against Tutsis united Hutu-dominated organizations, which successfully seized political power through elections, while the country remained under Belgian rule in 1960. The 1959 revolt prompted the first large-scale flight of Rwandans, mostly Tutsi, who sought refuge in the surrounding countries of Uganda, Burundi, Tanzania, and what is today called the Democratic Republic of the Congo. The Hutu-dominated government continued to sanction physical and institutional violence against Rwandans categorized as Tutsi. Additional waves of mostly Tutsi refugees fled Rwanda in 1967 and 1973 as a result of institutionalized political violence.<sup>46</sup> Periods of moderate Hutu-Tutsi violence continued over the next decades, mostly taking the form of state-sanctioned Hutu massacres of Tutsi civilians. In response, the Tutsi refugees living abroad began organizing attacks on their homeland. In 1987, the rebel refugees formed a group called the Rwandan Patriotic Front, or RPF, and launched assaults against the government of Rwanda in 1990 and 1991 under the leadership of Paul Kagame, Rwanda's current president. This drove Hutu and Tutsi Rwandans to seek asylum abroad.<sup>47</sup>

And then Genocide: the assassination of Rwandan president Habyarimana on 6 April 1994<sup>48</sup> served as catalyst to one of the worst episodes of violence the world has

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<sup>45</sup> Mamdani, *When Victims become killers*, 116-131.

<sup>46</sup> See Aimable Twagilimana, *Historical Dictionary of Rwanda* (Maryland: The Scarecrow Press, Inc., 2007), xxx, 140-142; Mamdani, *When Victims become killers*, 103-131.

<sup>47</sup> Twagilimana, *Historical Dictionary of Rwanda*, 140-142; Mamdani, *When Victims become killers*, 175, 186-189.

<sup>48</sup> The persons or party responsible for Habyarimana's assassination are unknown. See Philip Gourevitch and Paul Kagame, "After Genocide: A Conversation with Paul Kagame," *Transition* 72 (1996): 166.

ever seen. One million people were killed in the span of just one hundred days. Killings were an organized and systematic attempt of extremist Hutu forces to wipe out the Tutsi so-called *inyenzi*, or cockroaches. Gendered violence has also played a large role in the Rwandan conflict, both in inciting fear and terror and in producing and institutionalizing ethnic differences. Rape was used as a systematic, fear-inducing tactic of war. Between 100,000 and 250,000 Rwandan women<sup>49</sup> were raped during the hundred days of terror. It is difficult to get an accurate estimate as rape often preceded murder, and those who survived are often reluctant to admit or acknowledge rape because of the tremendous social stigma attached to it.<sup>50</sup> As a genocidal strategy, mass rape can be used to “render women from the target population incapable of bearing children,” or to “change the ethnic make-up of the next generation.”<sup>51</sup> It represents a kind of “ethnic cleansing,” in which both mental and physical trauma can handicap a population and prevent its continuation.<sup>52</sup> In Rwanda, rape of was used as a “weapon to humiliate or degrade” women. Though the country habitually practices public collective mourning for those who were murdered during Genocide, these living victims often suffer in a shamed silence.<sup>53</sup>

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<sup>49</sup> These estimates come from United Nations, *Sexual Violence: A Tool of War*, Outreach Programme on the Rwandan Genocide and the United Nations (Department of Public Information, 2012), 1. Other sources put the number of women raped in Rwanda during Genocide as high as 500,000. See Lisa Sharlach, "Rape as Genocide: Bangladesh, the Former Yugoslavia, and Rwanda," *New Political Science* 22, no. 1 (2000): 98-99.

<sup>50</sup> Sharlach, "Rape as Genocide," 98-99.

<sup>51</sup> United Nations, *Sexual Violence: A Tool of War*, Outreach Programme on the Rwandan Genocide and the United Nations (Department of Public Information, 2012), 1.

<sup>52</sup> Bülent Diken and Carsten Bagge Laustsen, "Becoming Abject: Rape as a Weapon of War," *Body and Society* 11, no. 1 (2005): 113.

<sup>53</sup> Donatilla Mukamana and Petra Brysiewicz, "The Lived Experience of Genocide Rape Survivors in Rwanda," *Journal of Nursing Scholarship* 40, no. 4 (2008): 380.

In response to this and other forms of violence, rebel Tutsi refugees invaded under the Rwandan Patriotic Front, employing violence of their own against the Hutu and ultimately ending the genocide in July 1994. Though most of the Genocide's victims were Tutsi, and most of its perpetrators Hutu, both victim and perpetrator could be found on either side of the ethnic divide, and everyone was affected. Fear does not discriminate. The violence of 1994 has been the single greatest source of refugees in Rwanda's history. Both Hutu and Tutsi fled.<sup>54</sup>

### **Political Rule by the Rwandan Patriotic Front**

After the 1994 Genocide, the Tutsi RPF seized control of the government and established itself as the ruling party of Rwanda. Pasteur Bizimungu, a Hutu who joined the RPF after his brother was assassinated by the previous Hutu-dominated ruling government,<sup>55</sup> was appointed president and held the position until his resignation in 2000. His status was never much more than a cover for the control and power exercised by Paul Kagame, Vice-President under Bizimungu, who has served as the nation's president since Bizimungu resigned.<sup>56</sup> Kagame's authoritarian government has retained control through creation of a carefully controlled climate of fear and political repression. The government regularly uses its role in ending the 1994 Genocide as a source of legitimacy. It has strategically crafted an official narrative of the 1994 Genocide and its causes to

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<sup>54</sup> Twagilimana, *Historical Dictionary of Rwanda*, 62-68, 140-142; Mamdani, *When Victims Become Killers*, 185, 218-221, 225-230.

<sup>55</sup> BBC News, "Analysis: Why Bizimungu Mattered," *BBC News*, March 23, 2000.

<sup>56</sup> After his resignation, Bizimungu attempted to form a new opposition political party, the Party for Democracy and Renewal, or PDR-*Ubuyanja*. His actions, as well as unfounded accusations of "divisionism," led to his arrest and imprisonment in 2002. Bizimungu was released after receiving a presidential pardon from Kagame in 2007. See Constance Morrill, "Show Business and 'Lawfare' in Rwanda: Twelve Years after the Genocide," *Dissent* 53, no. 3 (2006): 16; Arthur Asiiimwe, "Rwanda's ex-president freed from prison," *Reuters*, April 06, 2007; BBC News, "Analysis: Why Bizimungu Mattered," *BBC News*, March 23, 2000.



communicate that there has been state-led reconciliation, progress, and recovery, and to appeal to powerful states, funding agencies, investors, and tourists. The government narrative presents a very polarized, uncontestable version of the truth in which all the Tutsi are victims, all the Hutu are perpetrators, and the RPF and Kagame in particular are god-like saviors of a nation that was in ruin. Any alternative narratives are deemed to be false and their authors punished or delegitimized. Constance Morrill contends that such regime discourses are nothing but “show business” in which the 1994 Genocide “is manipulated for political advantage.”<sup>57</sup> On the whole, these ruling government efforts have been successful: total overseas development assistance (ODA) constituted an average of nearly a third—29.7%—of the country’s GDP in the decade following the genocide.<sup>58</sup>

The Kagame government has habitually and systematically worked to silence voices of dissent and opposition. Among the most tangible expressions of the stifling political climate are Rwanda’s laws against “genocide ideology” and “divisionism” or “sectarianism,” which severely limit free expression. Rwandan laws also criminalize acts like “boasting” and “laughing at one’s misfortune.” Before the Genocide, dehumanization of people categorized as Tutsi was institutionalized and reproduced through newspaper depictions and cartoons of the Tutsi as devils, snakes, or cockroaches. Regular radio broadcasts spread hate propaganda and disseminated unsubstantiated origin myths that placed the Tutsi as outsiders with Ethiopian roots. This powerful racializing discourse was pervasive and circulated under the guise of “freedom of speech,” not surprisingly

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<sup>57</sup> Morrill, “Show Business and ‘Lawfare’ in Rwanda,” 17.

<sup>58</sup> Kene Ezemenari, Ephraim Kebede and Sanjal Lahiri, *The Fiscal Impact of Foreign Aid in Rwanda: A Theoretical and Empirical Analysis* (The World Bank: Africa Region, Poverty and Economic Management 3 Division, 2008), 1.

contributing to the 1994 Genocide.<sup>59</sup> The Kagame government passed anti-sectarian expression laws, ostensibly to ward off future possibilities of genocide. Though this is a justifiable aim, the government has actually used these laws to “criminalize speech protected by international conventions” and to punish “criticism of the government and legitimate dissent.”<sup>60</sup> Keeping these laws vague and ill-defined but attached to serious punishments, including the possibility of life imprisonment, creates confusion, fear, and reluctance to speak openly, even among those who have not been directly subjected to such accusations. Children found guilty of genocide ideology can be put in prison, as can their parents or teachers if it is proven they have “inoculated” them with this genocide ideology.<sup>61</sup> A number of teachers, journalists, politicians, and ordinary citizens have been punished under these laws,<sup>62</sup> which Amnesty International calls an “impermissible restriction of freedom of expression” and a violation of international human rights law.<sup>63</sup> Thanks in large part to these and other policies of the Kagame government, thousands of Rwandan refugees fear return.

### **Rwandan Refugees Today**

Rwanda has produced multiple waves of refugees that resulted, at its peak, in a crisis of over three million refugees.<sup>64</sup> *Table 1: Timeline of the Rwandan Refugee Crisis*, provides a chronological summary of refugee flight from Rwanda. I begin with the wave of Tutsi refugees who left in 1959, when anti-colonial struggles coupled with Hutu efforts

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<sup>59</sup> Gregory H. Stanton, "Could the Rwandan genocide have been prevented?," *Journal of Genocide Research* 6, no. 2 (2004): 214-215.

<sup>60</sup> Amnesty International, *Safer to Stay Silent: The Chilling Effect of Rwanda's Laws on 'Genocide Ideology' and 'Sectarianism'* (London: Amnesty International Publications, 2010), 7.

<sup>61</sup> *Ibid.*, 1415, 17-18.

<sup>62</sup> Fahamu: Networks for Social Justice, *Rwanda: Cessation of Refugee Status is Unwarranted: Memorandum of Fact and Law* (The Fahamu Refugee Programme, 2011), 10-14, 18-19.

<sup>63</sup> Amnesty International, *Safer to Stay Silent*, 14, 16.

<sup>64</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 11.

to seize power forced many to flee. The subsequent entries reflect times of particular importance—either in cause or number—of refugee crisis, including a wave of political dissenters whose numbers continue to grow today.

**Table 1: Timeline of the Rwandan Refugee Crisis<sup>65</sup>**

Date	Refugee Identity	Causes of Flight	Approx No.	Has the group returned?	Impacted by Cessation ?
1959	Tutsi	Violent attempts of the Hutu party, PARMEHUTU, to seize power from the colonially-favored Tutsi	20,000-100,000	Mixed	Yes
1963-1964	Hutu, Tutsi	Attacks on Rwanda by Rwandan refugees in exile; retaliation massacres by the Hutu-dominated government	100,000	Mixed	Yes
1967	Tutsi	Widespread massacres championed by the PARMEHUTU	Not available	Mixed	Yes
1973	Tutsi	Massacres, Tutsi blocked from higher education and government jobs	Not available	Mixed	Yes
1990	Political dissenters—Hutu and Tutsi	RPF-led attacks; the unstable regime of then-president Habyarimana; Massacres of Tutsi.	80,000	Mostly yes	Yes
1991	Hutu, Tutsi	RPF-led attack	270,000*	Mostly yes	Yes
1992	Tutsi	Large-scale attack of Tutsi by Habyarimana's regime	600,000*	Mostly yes	Yes
1994	Mostly Tutsi, some Hutu	Genocide	1,425,000-2,000,000	Mixed	Yes
1994-1996	Mostly Hutu, some Tutsi; Those accused of being genocide perpetrators (largely Hutu).	The RPF-led government launches attacks on Congolese camps; Genocide reprisal killings; Fear of imprisonment for real or suspected perpetration of Genocide	60,000-600,000	Mostly yes—in response to Rwandan govt attacks on refugee camps in 1996	Yes
1996-1998	Political dissenters—both Hutu and Tutsi	Government persecution/intolerance; Fear of Genocidal reprisal killings; some social pressures	Not available	Mostly no	Yes
1999-present	Political dissenters—both Hutu and Tutsi	Government persecution/intolerance	Not available	Mostly no	Not officially, though some refugees fear blanket cessation.

\*These estimates may also include internally displaced peoples, or IDPs, in addition to refugees.

<sup>65</sup> Interviews; Twagilimana, *Historical Dictionary of Rwanda*, 140-142; Jeremy R. Tarwater, "Analysis and Case Studies of the "Ceased Circumstances" Cessation Clause of the 1951 Refugee Convention," *Georgetown Immigration Law Journal* 15 (2001): 586-588; Mamdani, *When Victims Become Killers*, 254; Newbury, "Returning Refugees," 258-261, 270-274, 276-280; David S. McDonough, "From Guerrillas to Government: post-conflict stability in Liberia, Uganda and Rwanda," *Third World Quarterly* 29, no. 2 (2008): 368; Catherine Newbury, "Background to Genocide: Rwanda," *A Journal of Opinion* 23, no. 2 (1995): 12. Compiled by author.

While most of these refugees have returned to Rwanda, some 100,000 continue to live in several asylum countries, largely in eastern and central Africa.<sup>66</sup> These remaining refugees fall into six categories, some of which parallel categories in Table 1:

1. *Pre-Genocide Refugees*, fled Rwanda, or their families fled Rwanda, before 1994. These refugees have been living abroad for over eighteen years, in some cases as long as fifty years. The majority are Tutsi and have forged strong ties with communities in their country of asylum. A proportion were born abroad but do not have citizenship in their country of birth, retaining their parents' Rwandan nationality and refugee identity, despite never having lived in Rwanda.
2. *Tutsi Genocide Survivors*, fled Rwanda in 1994 because they or their families were targets of genocidal violence or they feared personal harm due to genocidal violence.
3. *Hutu Genocide Survivors*, fled Rwanda in 1994 because they or their families were targets of violence or they feared personal harm due to violence. Many people in this category were persecuted for sympathizing with the Tutsi or opposing Hutu-organized promulgation of genocide ideology. Others were victims of violent RPF attacks.
4. *Genocide Perpetrators*, participated in the 1994 genocide and fled before they could be brought to justice.
5. *The Poor*, refugee camp officials and some Rwandan academics have found that particularly destitute Rwandans of all groups saw refugee status in surrounding countries as a potential escape from extreme poverty after the 1994 Genocide.

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<sup>66</sup> UNHCR, *UNHCR Statistical Online Population Database: Rwanda Statistics*, (Geneva: United Nations, 2012).

6. *The Politically-Persecuted*, comprise dissidents who fled the government of Paul Kagame in fear given the regular disappearance of opponents or perceived opponents, and government mistreatment of them and their families. This group includes both Hutu and Tutsi and continues to grow today.<sup>67</sup>

Table 1 describes why Rwandans were *initially* forced to flee, which does not necessarily align with why particular individuals or families remain refugees. Reasons for remaining outside Rwanda vary and depend as well on factors such as familial and other connections in asylum countries, date of departure, degree of absorption by asylum country, continued trauma, unwillingness to return to Rwanda under any circumstances, knowledge or fear of the situation in contemporary Rwanda, a desire to avoid standing trial for crimes committed in 1994, a misinterpretation of Rwanda's current security status, or a sense that Rwanda is not "home." Some of these are valid reasons for continued refugee status according to international refugee conventions, while others are not.

The Rwandan government has been incredibly proactive in its attempts to repatriate Rwandans, both by asking for the authorization and implementation of the cessation clauses and by establishing large-scale efforts to promote voluntary return of refugees beginning in 2002.<sup>68</sup> A sample of recent headlines from Rwanda's government-endorsed paper, *The New Times*, exhibit this eagerness for repatriation and pride in genocide recovery:

"Rwandans are always welcome home" (16 July 2012)

"Implementation of cessation clause vital" (09 October 2011)

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<sup>67</sup> See Mamdani, *When Victims become killers*, 103-132, 185-189, 202-206, 254; Cwik, "Forced to Flee and Forced to Repatriate," 735-737; Interviews by author 2011 and 2012; Amnesty International, *Safer to Stay Silent*, 8, 23-24, 33.

<sup>68</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 29.

“Time to congratulate ourselves, as Rwandans” (02 July 2012)

“Rwanda is a peaceful country, all should return.” (15 July 2012)

President Kagame and his government are eager to prove that efforts to reconcile and move forward are working. His reliance on foreign aid and investment, and his party’s need for other countries to believe that Rwanda is stable and recovered, are negatively impacted by the continuing existence of the “Rwandan refugee crisis” and the very category and existence of Rwandan refugees living in surrounding countries.

Nevertheless, the government routinely limits expression, manipulates elections, and denies committing crimes against its citizens in western Rwanda and the eastern parts of the Democratic Republic of the Congo.<sup>69</sup>

In October 2009, the UNHCR agreed to implement cessation as part of a “comprehensive strategy” addressing the Rwandan refugee crisis and particularly those refugees who fled Rwanda before 1999. Under this plan, refugees who left Rwanda in 1999 or later are not supposed to be subject to cessation. The UN offers a very brief justification as to why this date was chosen, stating that “unlike refugee flows from Rwanda after 1998, the above-mentioned periods share the character of group or large-scale forced population movements as a result of armed conflict, events seriously disturbing public order and/or the preservation of a consistent pattern of mass violations of human rights including genocide.” Before 1999, almost all Rwandans gained refugee

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<sup>69</sup> See Cwik, “Forced to Flee and Forced to Repatriate,” 740-742; Amnesty International, *Safer to Stay Silent*, 7-9, 13-15, 20, 26; Amnesty International, *Memorandum to the Government of Uganda about the Cessation of Refugee Protection for Rwandans* (London: Amnesty International Publications, 2011), 8; Amnesty International, *Memorandum to the Government of the Democratic Republic of Congo about the Cessation of Refugee Protection for Rwandans*, (London: Amnesty International Publications, 2011). 7; Fahamu, *Rwanda: Cessation of Refugee Status is Unwarranted*, 7-15, 28-31.

status *prima facie*, on a group—not an individual—basis.<sup>70</sup> Interestingly, an explanation as to why more recent refugees are excluded from the application of cessation is absent in the document. Addressing the refugee-creating conditions that persist in Rwanda would challenge the underlying assumption of cessation for pre-1999 refugees: Rwanda is safe for refugees to return.

The cessation plan has several parts, including heightened efforts to push voluntary repatriation, plans for local integration or acquisition of non-refugee legal status in asylum countries, and creating a clear timetable for the start and end of cessation.<sup>71</sup> In order to invoke the cessation clauses, the UNHCR and refugee host states are obligated to investigate the conditions in the refugee's country of origin and determine that they have changed sufficiently to warrant their safe return. In the document announcing its "comprehensive strategy" for Rwanda, the UNHCR argues that Rwanda currently enjoys "an essential level of peace and security." Reconciliation efforts, parliamentary and presidential elections, and the signing of several human rights treaties are also cited as evidence of fundamental change. The UNHCR admits to continuing concerns about "restricted space for political opposition," but counters that the current positive developments outweigh them.<sup>72</sup> Efforts to promote voluntary repatriation have intensified so that cessation must be completed by 30 June 2013—the latest extension of the deadline.<sup>73</sup> At that point, all pre-1999 Rwandans who remain abroad and

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<sup>70</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 27.

<sup>71</sup> UNHCR, *Implementation of the Comprehensive Strategy*, Section C.

<sup>72</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 28-29.

<sup>73</sup> Initially, Cessation was to take effect at the end of 2011. Later, the date was pushed to the middle of 2012, and most recently, to 30 June 2013. The UNHCR cites "the requests of countries of asylum for greater flexibility in the implementation of cessation at the national level" as justification for the delayed date of implementation. See United Nations. *Implementation of the Comprehensive Strategy*, par. 3.



had been considered refugees will become illegal residents of their asylum country and subject to attached penalties and restrictions.

Like the Rwandan government and the UNHCR, many asylum countries are eager to ease themselves of the burdens of hosting Rwandan refugees. Countries have been slow in creating alternative solutions for refugees not wishing to repatriate despite the fact that the cessation clauses and the UNHCR's "comprehensive strategy" mandate that refugees be presented with substitutes for forced repatriation, including exemption based on compelling individual circumstances or, in the case of long-term refugees with strong community ties, the chance to seek legal residency or citizenship in their country of asylum. As of 2011, Uganda had not taken any steps to establish such alternatives, and other host states have been slow moving as well.<sup>74</sup> Though the UNHCR makes recommendations for cessation of refugee status, the decision ultimately rests with asylum states, making them important actors in such situations.

For some Rwandan refugees, the attention and assistance that the cessation clauses attract have created welcome opportunities. The Rwandan government began investing in "go-and-see"/"come-and-tell" missions nearly a decade ago, in which small groups of refugees from various camps are brought back to Rwanda on brief information gathering trips. Once there, they have the opportunity to see and experience the country's current conditions firsthand. After their visit, the refugees return to their asylum countries to share these experiences with other refugees. The government also sends teams of Rwandans out to the refugee camps to share information and leaflets on the current status

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<sup>74</sup> See Cwik, "Forced to Flee and Forced to Repatriate," 738-739; UNHCR, *Implementation of the Comprehensive Strategy*, par. 17, 33-36; Jeremy R. Tarwater, "Analysis and Case Studies of the "Ceased Circumstances" Cessation Clause of the 1951 Refugee Convention," *Georgetown Immigration Law Journal* 15 (2001): 563-624.

of the country, the repatriation process, and what refugees can expect while reintegrating. Some, reassured by these efforts, have decided to return voluntarily—over 150,000 refugees have gone back to Rwanda since these government efforts initially began near the end of 2002.<sup>75</sup> This positive response has not, however, been universal. When the cessation decision was announced in 2009, a number of Rwandan refugees living in Uganda attempted to flee the camps to avoid forced repatriation. They still harbor very real fears of persecution and imprisonment. Soon after running away, these refugees were caught and arrested by the government of Uganda, which gave them into the custody of the Rwandan government; their ultimate fate is unknown.<sup>76</sup>

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The Rwandan refugee crisis is a complex and intricate situation with deep historical roots. The UNHCR and OAU have developed internationally-recognized definitions of the term “refugee” and the rights and protections that should accompany the term. Ultimately, the responsibility of labeling and protecting asylum seekers rests with individual state governments, who must negotiate the political, social, and economic pressures of hosting large populations of asylum seekers. The UNHCR cessation clauses offer an officially-sanctioned way for countries of asylum to relieve themselves of these pressures, forcing unwilling refugees to repatriate. Cessation for Rwandans must be completed by the middle of this year. The following two chapters explore the ways in which refugee status and impending repatriation shape notions of identity, home, and belonging, as well as the conditions in Rwanda that render such a decision premature.

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<sup>75</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par.11; Interviews by author 2011, 2012.

<sup>76</sup> Cwik, “Forced to Flee and Forced to Repatriate,” 737; Interviews by author, 2011, 2012.

## Chapter 2: “*Rwanda, C’est Mon Pays*”:<sup>77</sup> Negotiating Home and Belonging

Refugees are neither citizens nor foreigners. They undermine the neat compartmentalization of national belongings into a resident “self” and an alien “other,”<sup>78</sup> or the idea that an “international” world of states includes and represents all individuals and groups. Refugees’ status is inextricably tied to their exclusion, dispersal, or fear of return to a state where they ostensibly belong. They become refugees because they cannot be at home in the sovereign state that supposedly affords them citizenship and protection. Indeed, they left this national “home” and resist returning for a variety of reasons, including danger, fear, and trauma. Their status as refugees, designated and dictated by states and the UNHCR, an organization composed of state actors, destabilizes their identities and challenges authorized categories of belonging and home, which are largely based on the logic of citizenship in sovereign states.

Identity is malleable, regularly rearticulated and subject to manipulation. Categories imposed from the top down—by the United Nations, religious institutions and projects, ethnic and racial projects, state legal systems, and dominant discourses and practices in a given context—interact with individual and collective feelings that are strongly shaped by positionalities, collective and individual histories, and daily experiences. Because refugees have been denied connection to one of the strongest determinants of legal identity and belonging—the country of citizenship—they are forced to continually renegotiate ideas of home and belonging.<sup>79</sup> For Rwandan refugees, their

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<sup>77</sup> “Rwanda is my country.”

<sup>78</sup> See Emma Haddad, “The Refugee: Forging National Identities,” *Studies in Ethnicity and Nationalism* 2, no. 2 (2002): 28-30.

<sup>79</sup> Liisa Helena Malkki, *Purity and Exile: Violence, memory, and national cosmology among Hutu refugees in Tanzania* (Chicago: University of Chicago Press, 1995).

lives, identities, and sense of belonging are also challenged by the threat of “cessation” of their refugee status, which does not necessarily depend on resolution of the reasons for their initial or continued dispersal. This legal action does not substantively address each of their traumas, desires, fears, or the conditions to which they will be forced to return. Rwandans who fled their homeland for very real reasons—discrimination, massacre, Genocide, fear, persecution, trauma, and in some cases the search for a less impoverished life elsewhere—are now being told that Rwanda should once again be their home, and that they must return. They are experiencing a mandatory redefinition of self and identity: once excluded, they are now called back; once rejected, they are now forced to belong.

This chapter explores ideas of home and belonging in the narratives of interviewed Rwandans who fled to the Nakivaale Refugee Settlement in Southern Uganda and remained in exile, in the narratives of interviewed former refugees who have returned to Rwanda, and in state-sponsored discourse in Rwanda. Among the refugees, some remain attached to Rwanda as a geographic location, national identity, home, and place of belonging. Others reject this notion, insisting that they can never return to Rwanda and that they can never again belong there. They feel homeless. Some identify as refugees, living in an emotional and legal limbo where they wait for their situations to change. Returnees discussed coming back to Rwanda and their attachment to Rwanda as home. Government-sponsored discourses insist that Rwanda is new and improved, and that all Rwandans should return. Whether or not refugees and returnees accept such government claims, these discourses infuse their discussions of home, belonging, and return.

Understanding the shared identities, if any, of the Rwandan refugees who were my interlocutors and interviewees in Nakivaale has been an interesting and challenging task. I refer to them as “Rwandan” and “refugee,” often paired: “Rwandan refugee.” But these are labels of referential convenience rather than clear categories of social belonging. Though at one time each of these men and women lived in Rwanda, and though they now live in Nakivaale, these facts indicate no more than past and present geographic locations. Their actual identities are much more tangled. Many are homeless, rootless, wanderers. Others pine for return to a place they still remember as home. None “belong” in the settlement. Ultimately, the refugees are not free to determine where they want to belong or where they would like to call home. The Rwandan government, the governments of asylum countries, and international organizations such as the UNHCR are the dominant actors in the Rwandan refugee crisis. They decide in broad policy and legal strokes how to categorize Rwandans, what resources and protections they may receive, and where they should live.

### **Complicating Home, Belonging, and Return**

*Imana yiriwa ahandi igataha I Rwanda.*  
God spends the day elsewhere, but He sleeps in Rwanda.<sup>80</sup>

It is said by Rwandans that the great beauty of their country, the land of a thousand hills, draws God there each night. No matter where he has wandered or what he has done, he comes back “home” to sleep at the end of every day. During my time in Rwanda and Uganda—the fall months of 2011 and the summer of 2012—I found Rwandans to be extraordinarily proud of the country as a physical space. Often, strangers

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<sup>80</sup> This is an old, common Rwandan saying occasionally heard with slight variations. This particular wording and translation were taken from the epigraph of Joseph Sebarenzi, *God Sleeps in Rwanda: A Journey of Transformation* (New York: Atria Books, 2009).

would approach me in the street to ask, “What do you think of Rwanda? Is it not beautiful, our land of a thousand hills?” I always agreed—both the land and the people are full of beauty. For many of those living in Rwanda, the lush, rolling green hills, beautiful lakes, winding rivers, and the new, clean roads of the capital city make it a space to which they are uniquely connected. They see the land of Rwanda and the people of Rwanda as nearly one and the same. Not surprisingly, the relationships and connections to the land of Rwanda are more complicated for those who left the country and remain outside.

The Rwandan government is adamant that Rwanda, as both a state and a geographic location, continues to represent “home” for its refugees. No matter the time or the reason for leaving Rwanda, the government often describes those who have fled as “lost” or “wandering.” In President Kagame’s words, the return to Rwanda of all those who have left is the only conceivable solution to the country’s ongoing refugee crisis. Speaking to a delegation of Rwandans—former refugees who had just returned from exile in Zambia—General Marcel Gatsinzi, head of the country’s Ministry of Disaster Management and Refugee Affairs, proclaimed, “there is no better place than home,”<sup>81</sup> leaving unstated that home is more than the legal definition of citizenship or origin. Indeed, in a government-published pamphlet that was widely distributed throughout the refugee camps, immediate repatriation appears to be the only option the government has presented to its refugees. The brochure, published in Kinyarwanda, French, and English, is organized in question-and-answer form and divided into two sections. The first provides basic information about the UNHCR cessation clauses. The second, titled

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<sup>81</sup> Ministry of Disaster Management and Refugee Affairs, “Returnees and Diaspora from Zambia extol the country development,” December 18, 2012.

“Practical Information for Rwandese Refugees,” consists of thirteen questions, including “Once we reach Rwanda, will we have to stay in a camp?” and “Can our children enroll in schools immediately?” All of these questions assume repatriation is a certainty, not one of several options.<sup>82</sup> From the government’s perspective, if Rwanda as a geographic entity and state of citizenship is refugees’ home, return is the only option.

Two returned refugees, Patrick and Pascal, shared their stories with me. Their families fled Rwanda during massacres against the Tutsi in 1959 and 1973, respectively. Despite living in exile for several decades, both felt strongly that they belonged in Rwanda, and their absences were marked by a great desire to come “home.” Pascal was a young man when his family left Rwanda. He first sought asylum in the Democratic Republic of the Congo. During the two decades his family spent outside Rwanda, he felt they never had a home. They simply wandered, his parents keeping alive their children’s connection to the country by speaking often of its history and of their desire to return. He likens his situation to that of President Kagame, who was also a refugee, and now, as the country’s leader, is arguably the most “Rwandan” of Rwandans.<sup>83</sup>

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<sup>82</sup> See Ministry of Disaster Management and Refugee Affairs, “Questions and Answers about the Invocation of the Cessation Clause” (Kigali: Blue Star House, September 2011).

<sup>83</sup> Paul Kagame was born in Gitarama, Rwanda in 1959. In 1961, he and his family, Tutsis, were forced to flee Rwanda for fear of the violent, ethnically-driven massacres taking place at the time. They lived in exile in Uganda, where Kagame grew up and attended school. He returned briefly to Rwanda in 1977 and 1978, traveling the country from Kigali to visit friends and relatives who had either already returned or had never left. When political conditions in Uganda began to deteriorate, Kagame joined the army of Joseph Museveni (who would later become the president of Uganda) as an intelligence officer and information gatherer. This position offered him and his family a measure of control and protection. Using the power, influence, and networks he gained in this post, Kagame organized the community of Rwandan exiles that would later be the Rwandan Patriotic Front, invading Rwanda from the north, and arguably ending the Genocide. See Colin M. Waugh, *Paul Kagame and Rwanda: Power, Genocide, and the Rwandan Patriotic Front* (Jefferson, NC: McFarland & Company, Inc. Publishers, 2004), 7-10, 16-19, 24-26, 29-33, 36-39.

Patrick also spoke of his family's connection to Rwanda as home. He was born outside the country, when his family was living as refugees in the DRC, and grew up in Uganda. His family's period of refugeehood was one of homeless transitions and waiting. He explains, "For a long time my family had no home. You can live some place and it is not your home because you plan to leave, as soon as it is possible." His recollections differ from his practices, though, in that as much as he claims Rwanda as his country, he belongs and has social and emotional attachments to Uganda and to people in Uganda as well. This is not surprising—Patrick spent roughly half his life in Uganda. He continues to travel there frequently for work or to visit family and friends. But ethnic and national discourses, state citizenship rules, and UNHCR requirements misrecognize such dual and contingent sentiments and certainly discourage them as complicating state discourses, rules, and requirements.

The notion of home as a "fixed, bounded, and enclosed site" fits neatly within the view that identity is largely a product of national belonging, and that the state has geographic boundaries that parallel one's sense of home.<sup>84</sup> Some of the Rwandan refugees I spoke with retained an incredibly strong sense of Rwanda as both their country and their home. Among the most vocal proponents of this idea were Clément, a priest, and Jean-Pierre, a former schoolteacher. Educated men, outspoken and bold, they lamented the circumstances that forced them to flee Rwanda. They emphasized that leaving Rwanda was not a choice, but a necessity they wished to someday reverse. Though they left Rwanda nearly a decade apart, they told similar stories: they were working to bring to light stories of RPF violence. They hoped that recognition of these

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<sup>84</sup> David Ralph and Lynn A. Staeheli, "Home and Migration: Mobilities, Belongings and Identities," *Geography Compass* 5, no. 7 (2011): 518.



crimes could lead to peace and justice for those still dissatisfied and living as refugees. Kagame's government, in an effort to silence their accounts, threatened their lives. Yet for these two, Rwanda is nevertheless their country and their place of belonging. Jean-Pierre insists, "*Rwanda, c'est mon pays*" ("Rwanda is my country"), and always marks references to his country of birth with the possessive pronoun "*mon*." Clément has a similar sense of "Rwandanness," stating that "*nous sommes tous Rwandais*" ("we are all Rwandan"). Like Jean-Pierre, Clément uses possessive pronouns, referring to Rwanda and Rwandans as "*mon pays, mes peuple*" ("my country, my people"). Rwanda is not just *a* country, its people not *a* people; Rwandans are *his*, and he speaks of them in a way that shows that he is a part of them and he belongs there. By using these qualifiers, Jean-Pierre and Clément personally claim Rwandan belonging despite being refugees.

Clément believes that all Rwandans should be working towards a return, and his conviction is evident when he talks about cessation. He says, "*ils peuvent rentrer chez eux et commencer à vivre encore*" ("they can go back home and begin to *live* again"), emphasizing the needs of refugees who fled because of the 1994 Genocide, civil war, and massacres that pre-dated these events. He implicitly differentiates these refugee cohorts from more recent refugees, many of whose flight he believes is motivated by political disagreements rather than violence and is therefore less legitimate. Their motivations, he believes, stem from psychological fear and are not related to real potential for injury or death. The sources of their flight are often less tangible because the violences of Genocide and civil war in 1994 and the following years have mostly ceased. Despite these changes, the government continues to restrict space for political opposition, and

dissenters are frequently detained, tortured, or killed in secret.<sup>85</sup> In Clément's statement, "they" are the early refugees, the ones who left before the 1994 Genocide and the start of Kagame's reign. He sees Rwanda as both their home and his, where return would provide a fresh start and a new beginning. Rwanda is the one place where he imagines that their lives can be full, good, and meaningful. Though some Rwandans have lived in the settlement for half a century, in Clément's reading, it can never be their home.

Thérèse, a highly educated refugee—she worked in IT until she fled the country in 2010—also referred to Rwanda as "home," but one that is ultimately unattainable. She spoke regretfully of her husband, arrested for "speaking against the wishes of his excellency our president," which drove her and her family into exile. She talked of the country's "secret security" and the constant fear that plagues so many Rwandans' lives. But even as she spoke against him and refused to envision a return to Rwanda, she, like the men above, called Kagame "our president" and considered herself Rwandan, certainly, given her long attachments to Rwanda as home and her recent move.

The Rwandan government emphasizes the importance and necessity of repatriation—of coming home and going home—by citing the change and progress that has taken place in the country since the 1994 Genocide. This is a widely propagated narrative, produced by a significant public relations machinery<sup>86</sup>: that Rwanda is home for all its refugees, the one place they belong, the root of their identity. MIDIMAR, the

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<sup>85</sup> See Amnesty International, *Rwanda—Shrouded in Secrecy: Illegal Detention and Torture by Military Intelligence*, (London: Amnesty International, Ltd., 2012), 7-8, 11, 17-21; Amnesty International, *Safer to Stay Silent*, 7-9, 11, 20-22, 27; Chi Mgbako, "Ingando Solidarity Camps: Reconciliation and Political Indoctrination in Post-Genocide Rwanda," *Harvard Human Rights Journal* 18 (2005): 206-207.

<sup>86</sup> In order to build and maintain a public image of a progressive country recovered from the Genocide, President Kagame has employed several public relations firms. These include the UK-based consulting group BTP advisors (<http://www.btpadvisers.com/>) and the global public relations agency Racepoint Group (<http://www.racepointgroup.com/>).

Rwandan Ministry of Disaster Management and Refugee affairs, highlights the return and reintegration process in short articles and testimonials from returnees. One woman, Clementine, who fled Rwanda during the 1994 Genocide and lived in the DRC and South Africa as a refugee until she returned in January of 2013, is quoted as saying: “Returning home is the best gift the government has ever offered me.” The article goes on to say how thankful she is to have returned, and how “safe” and “at home” she feels after nineteen years away.<sup>87</sup> Another MIDIMAR article tells how Antoine Ruvebana, the ministry’s Permanent Secretary, “congratulated them [a group of returned refugees] for their wise decision to choose home after many years they have spent in the miserable life.”<sup>88</sup> In these narratives, Rwanda—the physical, geographic location—is inescapably and permanently home for *all* Rwandans, refugee or otherwise.

The Rwandan government relies heavily on its post-Genocide newspaper, *The New Times*,<sup>89</sup> to publish similar articles. The paper regularly spotlights returned refugees who have successfully reintegrated into Rwandan society, praising those who have returned “home” or to “the motherland” as “great,” or “of great thoughts.”<sup>90</sup> Like the MIDIMAR official who calls returnees “wise,” these articles reflect the government idea that returning home—at least for upstanding citizens—is a practical, logical choice.

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<sup>87</sup> Ministry of Disaster Management and Refugee Affairs, “‘Returning home is the best gift the gov’t has ever offered me’ Mujawimana Clementine,” January 22, 2013.

<sup>88</sup> Ministry of Disaster and Refugee Affairs, “Over 300 Rwandan refugees repatriate in one week,” January 9, 2013.

<sup>89</sup> Though *The New Times* is technically a privately-owned newspaper, several scholars and human-rights organizations, including Human Rights Watch, claim that the newspaper is state-run and that the government tangibly influences its publications. See Marie-Soleil Frère, “After the Hate Media: Regulation in the DRC, Burundi and Rwanda,” *Global Media and Communications* 5, no. 3 (2009): 347; Georgette Gagnon, *Response to The New Times Article on Rwandan Genocide* (Human Rights Watch, 2009).

<sup>90</sup> See Eric Kabeera, “Family returns after 37 years in exile,” *The New Times*, July 12, 2012; Charles Rurangwa, “Rwanda is a peaceful country, all should return,” *The New Times*, July 14, 2012.

Choosing to return, repatriating before the force of cessation comes into full effect, is a decision of the enlightened that should be emulated. Those who haven't come back, especially refugees in the DRC, are often portrayed as criminals, guilty *genocidaires*, or members of fighting groups such as the FDLR.<sup>91</sup>

It is difficult to imagine that refugee families who have not stepped foot in Rwanda for several decades could still be attached to Rwanda—Rwanda as it is today, and not just a memory of Rwanda. David Newbury presents this issue as a problem of discontinuity between a remembered Rwanda and the country as it currently exists. Refugees, he says, often assume they will be returning to a place that remains as they left it. Change over time, especially over the decades so many Rwandans have spent in exile, is inevitable. Those who believe that their former country has not changed may believe in or remember a home or a space that no longer exists, an idea of times past that has worn away. They have no home to return to—it has changed and they have changed.<sup>92</sup> If anything, they must rebuild a sense of home.

Both Patrick and Pascal, the returnees, describe contemporary Rwanda using the same government rhetoric and buzzwords that were ubiquitous in the capital: Rwanda is “advanced,” “developed,” and a “model for Africa.” Such language, which is widely propagated by the state, stresses the ruling government’s leadership and changes:

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<sup>91</sup> See Eric Kabeera, “100 refugees return home from Congo,” *The New Times*, January 09, 2013. The FDLR, or *Forces Démocratique de Libération du Rwanda*—Democratic Forces for the Liberation of Rwanda—is a rebel group located in the eastern Democratic Republic of the Congo. Its fighters mostly consist of former members or advocates of the Hutu Power movement, who fled the country after the RPF ended the 1994 Genocide in Rwanda. It is widely believed that most in the FDLR are guilty of crimes of genocide. See Jason Stearns, “FDLR Continues to Pose a Threat to DRC and Rwandan Stability,” *Defense and Foreign Affairs Strategic Policy* 32, no. 11/12 (2004): 22-24.

<sup>92</sup> David Newbury, “Returning Refugees: Four Historical Patterns of “Coming Home” to Rwanda,” *Society for the Comparative Study of Society and History*, 2005: 253.

- A Vision2020 report, a plan describing Rwanda's national development goals, proclaims, "Rwanda has made significant progress from the devastated nation that emerged from the 1994 Genocide."<sup>93</sup> In a related promotional video, posted from the government's Vision2020 YouTube account, a woman farmer expresses a similar view, saying, "we used to be primitive and did not know any better. But after government intervention, we woke up and became productive." The promotional film shows shots of Rwandan schools, businesses, and farms, all filled with hardworking Rwandans eager to show off their progress and success.<sup>94</sup>
- All over Kigali, the government has posted giant purple and white billboards that read: "*Twigire ku mateka twubaka ejo hazaza*" or "Learning from history to build a brighter tomorrow." The signs are in purple and white, Rwanda's colors of mourning and genocide commemoration. Next to these words, a declaration reads "18 years!" besides a small flame silhouette—the logo of the government's anti-genocide body (Figure 1).
- The *New Times* routinely calls Rwanda a "model for Africa"<sup>95</sup> and "an inspiration to other countries,"<sup>96</sup> and proclaims, "we are making progress."<sup>97</sup>

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<sup>93</sup> Ministry of Finance and Economic Planning, *Rwanda Vision 2020* (Kigali: Government of Rwanda, 2000), 4.

<sup>94</sup> The Republic of Rwanda, "Rwanda Vision 2020 - Transforming Lives," *YouTube*, February 9, 2012, <http://www.youtube.com/watch?v=GPJiT1-Yo3w> (accessed February 8, 2013).

<sup>95</sup> See Edwin Musoni, "Rwanda is model for Africa - WB boss," *The New Times*, November 4, 2010; *The New Times*, "Kagame receives Global Peace Award," October 27, 2010; Paul Kagame, "Rwanda's democracy is still the model for Africa," *The New Times*, August 21, 2010; and Grace Kwinjeh, "Rwanda - A new model for Africa's development," *The New Times*, September 11, 2009.

<sup>96</sup> *The New Times*, "Kagame receives Global Peace Award."

<sup>97</sup> Kagame, "Rwanda's democracy." Note that this article was actually written by Paul Kagame, President of Rwanda, following his reelection to a second seven-year term.

- On a page outlining the history of Rwanda, the government’s website states that “the country has made unprecedented socio-economic and political progress” under Kagame’s leadership. The section does not cite any particular points of evidence or accomplishment, instead describing the president’s “landslide” election victories and calling his platform one of “rapid development for the transformation of the lives of all Rwandans.”<sup>98</sup>

These represent just a few examples of government discourse on Rwanda’s progress and development. Though the recovery of Rwanda’s infrastructure, especially in Kigali, has been impressive, the deeper, more meaningful process of reconciliation lags behind.

**Figure 1: Billboard Commemorating the 18<sup>th</sup> Anniversary of Genocide**



This billboard, and others like it were omnipresent in Kigali during the 18<sup>th</sup> anniversary commemoration period of the 1994 Genocide. The posters were published by the government’s National Commission for the Fight Against Genocide, or CNLG.

Source:  
[www.cnlg.gov.rw](http://www.cnlg.gov.rw)

Patrick and Pascal do not address the superficial, forced nature of Rwanda’s post-Genocide transformations. While the country may have changed in many significant, tangible ways—infrastructure development, progressive health and education

<sup>98</sup> The Republic of Rwanda, *Brief History of Rwanda*, 2012, <http://www.gov.rw/History> (accessed January 28, 2013).

programming<sup>99</sup>—some aspects of recovery remain woefully neglected. There are many problems, simplifications, and elisions in the dominant framing of the problems and solutions. Patrick and Pascal share these hegemonic stories of a strong and recovered country. They seem attached to the Rwanda of today. For them, it may be the safest course to repeat the ruling party’s rhetoric of recovery and progress, rather than risk upsetting a precarious and powerful government by speaking freely. They continue to imagine and create their idea of home just as they did during their refugeehood, when they were distanced from it and it remained simply an elusive idea.

### **Being and Feeling Homeless**

The word “refugee” is rooted in the idea of *refuge*, a place of shelter or protection. Before World War I, the concept was more focused on the receiving or asylum end of the refugee experience. A “refugee” was a person seeking safe haven. After the war, the definition shifted to focus on flight, not destination, as the main component of refugee identity. Today, to be a refugee is to drift or flee across international boundaries.<sup>100</sup> When the United Nations began the challenging task of defining and outlining the components of refugee identity in 1951, they were confronted with a large, preexisting refugee crisis that spanned Europe. Their definition had to encompass first the Jews, persecuted under Nazi Germany, and then the thousands in Eastern Europe fleeing repressive communist regimes. Generally, these first refugees were members of well-defined groups, and they had been harmed or had been threatened harm on the basis of personal characteristics—

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<sup>99</sup> These changes are discussed more fully in Chapter 3.

<sup>100</sup> Douglas Harper, *Refugee*, 2012, <http://www.etymonline.com/index.php?search=refugee> (accessed February 11, 2013).

race, religion, nationality, political opinion—or social class.<sup>101</sup> As discussed more fully in Chapter 1, the 1951 UNHCR definition has expanded over time and continues to be used internationally today. According to the 1951 UNHCR definition, a refugee is someone forced to leave the international boundary or boundaries of their country of citizenship by either state persecution or fear of it.<sup>102</sup>

Many of the refugees I spoke did not share the points of view of returnees Patrick and Pascal that they are unquestionably Rwandan. They did not, like refugees Jean-Pierre or Clément, believe that going home could or should be a goal. Instead, some lay claim to their collective refugee status as a source of identity and belonging. They *are* home, or at least they are *homeless*, which is in itself a kind of “home” for some refugees. For a few Rwandans, their status as wanderers had religious connotations. Religion—Christianity in particular—has a longstanding important role in Rwanda. The country is over ninety percent Christian, with the majority practicing Roman Catholicism.<sup>103</sup> Although some Church officials were instrumental in genocidal planning and preparation, and many churches were sites of massacre during Genocide,<sup>104</sup> religion is still a dominant, moving

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<sup>101</sup> Daniel J. Steinbock, "Interpreting the Refugee Definition," *UCLA Law Review*, 1998: 735-736, 768, 788; William Thomas Worster, "The Evolving Definition of the Refugee in Contemporary International Law," *Berkeley Journal of International Law* 30, no. 1 (2012): 105-107.

<sup>102</sup> The text of the UNHCR definition calls a refugee any person who, “as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” This definition is found in the UNHCR *Convention*, Article I, A (ii) and is discussed and analyzed in Chapter 1.

<sup>103</sup> Bureau of Democracy, Human Rights, and Labor, *Rwanda: International Religious Freedom Report 2007* (Washington, D.C.: US Department of State, 2007).

<sup>104</sup> See Timothy Longman, "Church Politics and the Genocide in Rwanda," *Journal of Religion in Africa* 31, no. 2 (2001): 163, 165-166, 181-182; Timothy Longman and Théoneste Rutagengwa, "Religion, Memory, and Violence in Rwanda," in *Religion, Violence, Memory, and Place*, 132-146 (Bloomington, IN: Indiana University Press, 2006).



forces in the lives of the refugees I spoke to in Nakivaale. Several compared their refugeehood to the archetypal experiences of Jesus. They spoke of Jesus' flight with his family into Egypt, and of his time wandering in the desert. Rosine told me, while motioning to a painting of the crucifix—the only ornamentation on otherwise bare walls—that being a refugee was tolerable because Jesus had been one, too: "I am a refugee. You can see. It is not so bad. The son of God, our lord Jesus Christ, was once a refugee." In another conversation, Emmanuel suggested the same: "This problem, this reason why I am here in Uganda... do you know Jesus was also a refugee?"

Likening their refugee identity to that of their prophet—a man looked to as the epitome of what they should strive to be—brings these refugees a kind of hope or comfort they need to go on. The status of being a refugee or a wanderer, *belonging* as a refugee or with other refugees, does not solve the material or citizenship problems of these Rwandans. Instead, it is a way of negotiating the fear, insecurity, or shame that such status brings,<sup>105</sup> a method of reclaiming some of the agency, dignity, and self-determination lost in exile. There is a certain sense of pride in having lived through the tragedy and hardships of refugeehood, and in this respect, identifying as a refugee is a way of expressing perseverance against odds and giving meaning to suffering.<sup>106</sup>

Though Nakivaale, as a space of exile, has not necessarily or fully become a home for all its inhabitants, it still may serve as a place of refugee belonging. Some migration-influenced theories of identity and belonging describe home as a network of relationships that are not dependent on locale or on a single location. Home, in this sense, is mobile,

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<sup>105</sup> See Awa M. Abdi, "In Limbo: Dependency, Insecurity, and Identity among Somali Refugees in Dadaab Camps," *Refuge* 22, no. 2 (2005): 6-14 for a discussion of this shame in the Somali context.

<sup>106</sup> Maggie O'Neill and Tony Spybey, "Global Refugees, Exile, Displacement and Belonging," *Sociology* 37, no. 1 (2003): 8.

and changes according to experiences of social inclusion or exclusion and processes of perception and creation of “self” and “other.” Notions of belonging depend on refugees’ ability to participate in group societal practices as well as their more subjective feelings of being included. The identities that develop from this reading of home are layered, multiple, and occasionally contradictory.<sup>107</sup>

One refugee, Rosine, gave me some indication that while the Nakivaale refugee camp might not be home to her, it has produced a kind of a community. The other refugees, though not her family, understand her as a *survivor* and together they’ve developed a kind of mutual reliance, taking care of the sick, poor, and hungry. For Rosine, “home” has become not a location nor an idea, nor a recovery of the past, but a community. The camp is not her home, but the people who live there are. She no longer accepts that Rwanda—physical, geographic, spatial, national Rwanda—is her home. Other refugees, even if they still hold out hope for successful reintegration into Rwanda, seem to believe the same. When they spoke of home, Grace and Élise said nothing to suggest that they were bonded to the geographic location of Rwanda. Both spoke of home as a place or time in their lives where they were happy and successful, where they could live and work with their families.

Other refugees I spoke with, Rwandans who still harbor a desire to go back, rejected this idea of a community within the camp. Jean-Pierre, the schoolteacher, insists that the refugees are too different to form such a cohesive, mutually dependent group: “*Nous sommes très différents. Je peux passer le temps avec quelques-uns, mais les autres... nous sommes pas le même.*” (“We are very different. I can spend time with some of them, but the others... we are not the same.”) Jean-Pierre harbors an intense desire to

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<sup>107</sup> For a detailed discussion of this idea, see Ralph and Staeheli, “Home and Migration.”

return to Rwanda. Perhaps those only who completely reject the possibility of return can find a sense of home among the homeless.

To me, these ideas of home as a positive, safe space, seem more like a memory of experience and relations than descriptions of a geographically- or politically-defined space. Home is a feeling more than a location. It is the *relationships* in a country, village, or home more than it is the place itself. Newbury's research touches on this idea of the relationship-oriented renegotiations of home and identity. He discusses how changes in the refugee, in their country of origin, and in the relationships and connections they have forged while away can reshape refugees' sense of home in the way that changes in physical and social have a similar impact. When cessation comes into full effect, Rwandan refugees, especially those who fled before or during the 1994 Genocide, will be returning to a fundamentally different country than the one they left: a new political system, rebuilt infrastructure, a state ostensibly seeking to reject the Hutu and Tutsi ethnicities that were once defining in favor of a new idea of homogenous national unity. Return involves re-involvement in a changed community, not necessarily the "correction" of a physical displacement.<sup>108</sup> Home, then, is both the sensation of belonging and the strength of relationships. For these refugees, home is a mobile idea that is not well-captured in arbitrary entities such as the nation or the state.

For Rwandan refugees, identity, identification, and feelings of belonging and home are more than usually complex. Different refugees emphasize different parts of their lives, connections, and experiences when negotiating their ideas of home. For some, both returnees and refugees, Rwanda as a physical space and a political entity continues to serve as the primary marker of their identity. Others feel as if they no longer belong to

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<sup>108</sup> Newbury, "Returning Refugees," 253-255, 277-281.

the country because of the pain, injustice, or fear they experienced there. Though life in Nakivaale, the refugee settlement, does not lend itself to the kind of home creation they are searching for, for a few it has served as an opportunity to form a new community. They attempt to separate home and belonging from the physical space of Rwanda and instead identify through relationships, shared experiences, and mutual dependencies.

### **An Emotional and Legal Limbo of Waiting**

Many refugees in Nakivaale live in limbo, waiting for the time they are able to return to Rwanda, which for some remains country and home. Life as a refugee is temporary by definition. The uncertain possibility of return can paralyze refugees, interfering with their ability to make basic life decisions, to plan for their futures, or to act on any potentialities. Their refugee status can cause them to see their life as one of restricted possibilities. Even if they spend decades living as refugees, the suspended and unpredictable nature of their lives limits opportunities to the short-term since life can change direction at a moment's notice. The social and psychological consequences of this forced suspense and life on the periphery can be severe: aggravating mental illnesses such as post-traumatic stress disorder, intensifying poverty, and making it difficult to constitute or sustain families. Prolonged refugee status and the uncertainty surrounding its cessation forces refugees to depend heavily on the hand-to-mouth living arrangements of the settlement and dissuades them from seeking self-sufficiency or reliance, if they have such a choice. Refugees are forced to live lives suspended before the unknown.<sup>109</sup>

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<sup>109</sup> Among the refugees I interviewed in Nakivaale, some seemed to have found a shaky path to self-sufficiency or permanence—sharecropping jobs, small-scale craft trading when granted day passes to Kampala, teaching or preaching in the camp for a trivial remuneration—while the majority remained completely dependent on the settlement's services and rations for their survival. See Alison Mountz, Richard Wright, Ines Myiares and Adrian J. Bailey, "Lives in

Marcel, who works as a sharecropper on a farm outside the settlement, described this state of limbo as like running in place: “*La vie est difficile. On ne travaille pas pour améliorer, ou pour quitter—on travaille seulement pour exister.*” (“Life is hard. We are not working to make things better, or to leave—we are only working to survive.”) He felt like he wasn’t moving anywhere, that he wasn’t making any progress, and that his life had come to a kind of standstill.

Grace, a middle-aged woman from the Rwandan town Gitarama who fled during the 1994 Genocide, also attested to this state of suspense: “I am waiting for my country that is not my country. I am waiting for my home.” Another woman, Élise, a former entrepreneur, explained several times the transitory nature of her homelessness. Despite the severity and brutality of the abuse she faced from the Rwandan government, she still insists, “Rwanda was my country, my home, and I hope that someday it will be my home again. Until then I have none.” Because they have built their lives around the hope that their stays in Nakivaale will end, they live in a suspended state of uncertainty that can be crippling. As she waits for a return, or for a home, Grace is reluctant to go through the motions that would build a more permanent kind of life—finding a job, schools for her children, or a more reliable source of food. According to the men and women I spoke with, opportunities for these actions are only occasionally offered to Nakivaale refugees. This state of uncertainty and suspense is legal and political as well as emotional. As discussed in Chapter 1, Rwandan refugee status can be revoked even if the conditions for safe return or just resolution are not in place. The threat of “cessation” makes it extremely difficult for refugees to develop a sense of home or belonging in their country of refuge.

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limbo: Temporary Protected Status and immigrant identities," *Global Networks* 2, no. 4 (2002): 349-351; Abdi, "In Limbo," 7-9.

At any time, and through no action or fault of their own, they can lose the legal protection and benefits of refugee status and be forced to repatriate, whether or not conditions for such repatriation are safe or hospitable.

Clément, the priest, wasn't sure if cessation would affect him. Jean-Pierre, the former high-school teacher who spoke with such conviction and insight about *his* home, *his* country, in Rwanda, was at a loss for words when I asked what he would do if he was forced to return. Others—Emmanuel, Rosine, Grace, Élise, Thérèse—spoke of their fears and uncertainties surrounding return to Rwanda. For those refugees who refuse even the thought of a possible future return to Rwanda, entertaining the idea of the country as home seems near impossible. Many insist, in no uncertain terms, that it would be inconceivable that they ever go back voluntarily. For Didier, a father who fled with his family during Genocide, forced return is unjust and unfair. When I questioned him about cessation, he sputtered angrily at me,

They want to force me back! How can they do this? If I was white like you, if I was American like you, they would be [seen as] breaking the law. This is illegal. But somehow these laws are different for me, and no one cares.

*They*—the government, a powerful Rwanda in the abstract, the United Nations, and Uganda, his country of refuge—are unjustly forcing him to return to a place where he continues to be unsafe. In his eyes, it's because these actors see his life as insignificant and disposable. If it were me—white, American, and so “significant” in the world by birthright—he believes that someone, somewhere, would stop it. But either way, it is not something that he can control. He is powerless to face the decisions and cruelties of governments and the UNHCR. And the fact that “no one cares” makes him feel worthless, helpless, and fearful.

Marcel and Élise stated explicitly that return, for them, could mean death: “It is most possible that they [the government] will kill me” (Élise). Thérèse, the IT specialist, agreed. She even went a step further, telling me that death was preferable to return. Her insistence on this surprised me, reflecting a hopelessness I couldn’t sense as she talked passionately about other things—the pride she takes in her children, her love for them, her complaints against Nakivaale’s education system and the secretive nature of the Rwandan government. She was opinionated and animated about these subjects. But mention of forced return to Rwanda brought out a kind of defeat and bitterness, coupled with desperation: “If they make me go back I will die first. I will hang myself before I go back to Rwanda. Both ways I will die, but only one way I am killed.” She is willing and prepared to take her own life rather than going back to the country that she fled in fear and anger. Rwanda is not her home, and she has no hope that it ever will be again.

Similarly, Rosine, today a thin, tired, old woman, watched as her children, husband, parents, and neighbors were murdered in front of her. She firmly rejected any notion that the place where her family was slaughtered could ever again be a place where she belonged:

The government says I must go back. But my husband was killed. My children—my sons and daughters—they were killed. My parents were killed, and my friends, and my neighbors. Everyone I knew is now dead. Why should I go back? What would I go back for? If I was there I would think of them, of all those people I love who I saw killed. I still hear them dying—now, as I’m talking to you, I hear them. I cannot go back to Rwanda. That country is no longer my home.

For Rosine, home is strongly connected to her family members and relationships.

Because her family is gone, so is her home. Rwanda is not her country because it was there that she witnessed unspeakable tragedy, a violence that destroyed her loved ones.

What was once her “home” has become instead the place that produced her tragedy and trauma, the source of violence and death. To Rosine, relationships matter more than nationality or place in determining where she will call home.

Emmanuel, another refugee who lost his family in Genocide, also rejected any possibility that someday he might be able to or want to return to Rwanda. There is nothing left for him there. He first left Rwanda in 1994 after his family was killed and escaped to Tanzania. Three years later, he returned to his village in Rwanda to find all who had lived there before Genocide dead. He spent the next three years living in fear—of the current government, reprisal killings, and those who had murdered his family coming back to finish him off—until he fled a second time, this time to Nakivaale in Uganda. He has seen post-Genocide Rwanda, he knows what it has to offer him, but he is still afraid and his community is gone. Both Rosine and Emmanuel are homeless and country-less. They have no legal category of belonging—citizenship—they are willing to occupy. A return to Rwanda is inconceivable because the things that once made it their home—family, safety, peace, security—have been irreparably lost or damaged.

Conversely, as much and as fervently as Godfred, the Deputy Camp Commander of Nakivaale, insisted that “the settlement, when you are a refugee, is your home,” this was not a sentiment shared by any of the refugees with whom I spoke. Even for Didier, Marcel, Élise, and Thérèse, who insisted so vehemently that they could *never* return to Rwanda, the camp was not a home nor someplace they truly belonged. Life in Nakivaale is a struggle, every day. Most Rwandans live together in one section of the settlement. When they first arrive, settlement officials give each family a set of building materials, and they construct their own homes. The houses are small, and grouped in tight clusters



off the main, wide, red-dirt road. Many of their roofs are made from corrugated metal, pieces of the large containers used for shipping food to the settlement. On some, you can still make out the “WFP”—for World Food Programme—painted in big white letters. Most of the refugees pass their days outside these “houses,” at work, at school, or gossiping in the shade. Groups gathered outside a house if I was there interviewing. At night, some refugees sleep on foam mattresses on the floor, and others sleep on the ground. There are several communal pipes for water. Food rations are distributed at the beginning of each month from a tent near the center of the settlement, except when they are late—which is often, according to these refugees. Their lives as refugees are restricted and precarious, offering little in the way of safety or comfort.

Several of the refugees that I met worried about the way Nakivaale was forcing their families to fight to survive. Grace talked about her children’s hunger and poor nutrition: “They don’t give us enough food. Look at my boys! If we were in Rwanda they would already be big men, but here we have nothing. They are sick often.” Didier, also a concerned parent, talked of the shame of being a farmer with no land. Embarrassed that he could not properly provide for his family, he told me, “This is where I live now. My house is small, my children are hungry. Of course I want to leave. But you tell me—where should I go?” His life in the camp is neither comfortable nor stable. He does not have enough to sustain his family. Nakivaale can never be Didier’s home.

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Refugees negotiate home and belonging in varied and complex ways. While some are eager to return to Rwanda even if they are afraid, others cannot imagine ever returning, even if conditions are safe. All the refugees live with the possibility of being

forced to return to Rwanda—changed or not. The governments in host countries and the UNHCR will determine when and if their refugee status will cease. The Rwandan government uses massive public relations campaigns to insist that change and progress have occurred in Rwanda under the rule of the RPF, and all refugees should return. The ruling party depicts the country as transformed and reformed under its rule and as having made a near-full recovery from the devastation and trauma of the 1994 Genocide. As discussed in the following chapter, the government actively works to compel refugees to return through a range of means, including violence, and represses dissent and opposition. The RPF uses re-education camps to produce the kind of citizen-subjects it perceives to be appropriate to the new Rwanda. The contrasting definitions of home and belonging in this chapter raise several interesting questions: Is home (national, family, or community) by definition safe? Can one legally or socially belong and yet not feel they are home? Are attachments to multiple homes possible? What does it mean for a refugee to permanently disavow the home of their “natural” origins? And, can one be “home” in a place one is planning to leave?

### Chapter 3: “*Nous Avons Peur de la Vérité*”:<sup>110</sup> Truth, Lies, and Return

According to the United Nations High Commissioner for Refugees (UNHCR) protocols, the “ceased circumstances” cessation clauses<sup>111</sup> can only be invoked if a refugee’s country of origin has undergone both “fundamental” and “durable” changes. The UNHCR and refugee asylum countries state that they attempt to look objectively at the situation in the refugee’s country of origin when deciding whether or not the application of these “ceased circumstances” cessation clauses is warranted. According to the UNHCR, the country of refugees’ origin must have removed “the basis of the fear of persecution” for refugees. Change in such a country must be “major, profound or substantial” as well as “durable.”<sup>112</sup> Before the October 2009 UNHCR recommendation that asylum countries apply the cessation clauses to Rwandan refugees living in their countries, the UNHCR conducted an investigation into Rwanda’s current political situation and the changes enacted in the years since the 1994 Genocide in response to the continued requests of the Rwandan government.<sup>113</sup>

Rwandan efforts to project to the UNHCR, other governments, international economic organizations, and funders that the country has improved and changed since the 1994 Genocide have been largely successful. The UNHCR recognized that Rwanda has undergone “positive developments” and “rapid, fundamental and crucially positive change,” citing as evidence the establishment of a new constitution and government, the development of a National Human Rights Commission, the abolition of the death penalty, and the holding of elections. Though the UNHCR acknowledges various continued

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<sup>110</sup> “We are afraid of the truth.”

<sup>111</sup> The final two of the six cessation clauses are known as the “ceased circumstances” clauses, Article I, C(5) and (6) in the 1951 UNHCR *Convention*.

<sup>112</sup> UNHCR, *The Cessation Clauses*, par. 25-26.

<sup>113</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 28-30.

concerns about security, persecution, and safety, it maintains that conditions in the country are “good enough” for refugees to return.<sup>114</sup>

Many refugees, however, protest that the country is still unsafe and that their impending forced repatriation is both premature and dangerous. The government works hard to demonstrate the successes of its genocide recovery efforts, both to its people and to the rest of the world by emphasizing improvements in infrastructure, education systems, and healthcare. The government reinforces a simplistic and ahistorical rhetoric whereby all the Tutsis were innocent and all the Hutus were guilty in the massacres, genocide and civil war of the mid-1990s. Within such a neat narrative, the Tutsi-dominated RPF government denies responsibility for any violence or continuing repression. As long as the Rwandan government continues to be repressive and avoids the difficult work attached to accountability, reconciliation, and recovery, refugees have legitimate bases for fear and reluctance to return. This chapter demonstrates that statistical indicators, buildings and roads, social welfare projects, cultural and educational projects, and stories and symbols of transformation and improvement hide as much as they tell.

### **Infrastructures and Symbols of “Progress” in the “New Rwanda”**

The Rwandan government has worked hard to demonstrate to its people and the rest of the world that it has successfully recovered from the 1994 Genocide. After the complete devastation and ruin of Genocide, the government tasked itself with rebuilding the entire country—infrastructure, political systems, a wounded and traumatized population—from the ground up. The ruling government operates under the assumption that *physical recovery*—the tangible reconstructing of the country’s infrastructures and

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<sup>114</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 28-32.

the establishment of a range of programs—constitutes *progress*, and that they both somehow denote *resolution* and *reconciliation* in the sense of individual healing, forgiveness, reparation of past wrongs, and the establishment of a stable, long-lasting peace. The government of Rwanda has significant interest in convincing a range of institutions and groups that ethnic and other divisions in the country have been resolved and that reconciliation for past wrongdoings is well under way.

While it has been difficult and slow work, many meaningful steps have been taken over the past two decades and a number of changes have occurred, although not all indicate a reconciled country that is safe or hospitable for every Rwandan. Under Kagame's leadership—first as vice president, Minister of Defense, and *de facto* ruler, and later as titular President and autocrat—Rwanda has rebuilt and expanded its infrastructure. Today, tall, glass-clad office buildings form the skyline of downtown Kigali. Rwandans are especially proud of their roads, many of which are smoothly paved with painted curbs, a vast improvement from their pre-Genocide state.<sup>115</sup> There is an appreciable difference and newness apparent to those crossing the northern border into Rwanda by car or bus. Figure 2 shows three images from the city of Kigali: directly after the Genocide; as it appears today; and as the government hopes it will look in the future. The images of present and future reflect enormous vision and impressive efforts to rebuild and create anew, as well as a government-led effort to convince observers that Rwanda is a stable, developed country with social conditions fundamentally different and improved from those that plagued Rwanda before and during the Genocide of 1994.

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<sup>115</sup> See World Health Organization, "Rwanda's road-safety transformation," *Bulletin of the World Health Organization* 85, no. 6 (2007): 425-426.

**Figure 2: Kigali – Past, Present, Future**



*Kigali after Genocide:*

Ten thousand Rwandans were slaughtered in Nyamata Church during the 1994 Genocide. Their clothes, in piles higher than the church pews, are shown here. Today, this site is a government-sponsored Genocide memorial.

Source:

<http://www.africastories.org/unthinkable-forgiveness/photo-gallery/#>



*Kigali Today:*

Over the past two decades, Rwanda's capital has gone from complete ruin to a large thriving city.

Source: personal photo, taken December 2011.



*Kigali Tomorrow:*

The Rwandan government has outlined ambitious plans for Kigali's growth and expansion. Here is what they hope the city will look like in the future.

Source: The Republic of Rwanda, *Kigali Conceptual Master Plan*, (Kigali: Rwanda Development Board, 2008).

Hospitals and healthcare, likewise, have been built, rebuilt, or developed. Currently, over ninety percent of Rwanda's population is insured through a community-based health insurance initiative called *Mutuelles de Santé*. The government heavily subsidizes the program, and Rwandan citizens pay about \$6 each year to take part. Its success is quantifiable—noticeable decreases in HIV rates and infant mortality,<sup>116</sup> higher life expectancies, greater family planning coverage and resources<sup>117</sup>—and has been lauded by a range of governments, international organizations, and funders.<sup>118</sup> The World Health Organization reports that Rwanda's health initiative, *Mutuelles de Santé*, which has comprehensive reach, has prompted more Rwandans to seek needed medical care, and has significantly reduced the financial hardships associated with sickness.<sup>119</sup>

Additionally, the Global Fund Against AIDS, Tuberculosis, and Malaria (GFATM) has funded a "Health System Strengthening Project" in Rwanda to bolster the work of the government's *Mutuelles de Santé* initiative. The organization reports significant

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<sup>116</sup> Efforts at reducing incidence of both HIV and of infant and child mortality have also manifested in a number of health programs that complement the expansion of *Mutuelles de Santé*. One such program, a joint effort of the Rwandan Ministry of Health and the international non-profit Partners in Health, has been successful in increasing health service utilization and survival rates for infants exposed to HIV. See Neil Gupta, et al., "Clinical Outcomes of a Comprehensive Integrated Program for HIV-Exposed Infants: A 3-Year Experience Promoting HIV-Free Survival in Rural Rwanda," *Journal of Acquired Immune Deficiency Syndromes* 62, no. 4 (2013): 110, 112-114.

<sup>117</sup> The Republic of Rwanda, "Health System," 2012, <http://www.gov.rw/Health-System> (accessed February 15, 2013); Center for Health Market Innovations, "Mutuelles de Sante, Rwanda," 2013, <http://healthmarketinnovations.org/program/mutuelles-de-sante-rwanda-0> (accessed February 15, 2013); Dorothy E. Logie, Michael Rowson and Felix Ndagije, "Innovations in Rwanda's health system: looking to the future," *The Lancet* 372, no. 9634 (July 2008): 257-258.

<sup>118</sup> Among those praising Rwanda's health sector reforms is the United Nations Development Programme, which cites increased availability to the ARVs used to treat HIV, increased use of health facilities, increase use of "modern" contraceptives, and reduced infant mortality rates as notable achievements. See United Nations Development Programme, *One UN Programme: United Nations Rwanda, Report 2008*, (United Nations, 2008), 7, 18-20.

<sup>119</sup> Priyanka Saksena, Adélio Fernandes Antunes, Ke Xu, Laurent Musango and Guy Carrin, *Impact of mutual health insurance on access to health care and financial risk protection in Rwanda* (Geneva: World Health Organization, 2010), 208.

successes in several health status indicators: increased health service utilization, TB treatment completion rates up from 58% in 2002 to 85% in 2006, and a decrease in under-5 child mortality from 196/1000 in 2002 to 152/1000 in 2007.<sup>120</sup> In the past few years, the *New York Times* has also published several articles praising Rwanda's health system progress and development, with titles such as "Rwanda's Health Care Miracle,"<sup>121</sup> "In Desperately Poor Rwanda, Most Have Health Insurance,"<sup>122</sup> and "Rwanda's Health Care Success Story."<sup>123</sup> In these articles, the authors praise Rwanda's model of universal health care coverage, the ability of communities to identify and help their poorest members, and the favorable outcomes achieved at small, local, "no-frills" clinics. The successes of Rwanda's health initiatives have indeed been far-reaching.

Post-Genocide Rwanda has made impressive technological advancements and innovations. Some are designed to meet health care challenges. One program, called TRACnet,<sup>124</sup> allows health care providers to submit and receive reports of the antiretroviral treatment programs (ARVs) used to fight HIV through a system of simple, solar powered phones.<sup>125</sup> The government has also established or sponsored a number of

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<sup>120</sup> Andreas Kalk, Natalie Groos, Jean-Claude Karasi and Elisabeth Girrback, "Health systems strengthening through insurance subsidies: the GFATM experience in Rwanda," *Tropical Medicine and International Health* 15, no. 1 (2009): 94-95.

<sup>121</sup> Tina Rosenberg, "Rwanda's Health Care Miracle," *The New York Times*, July 3, 2012.

<sup>122</sup> Donald G. McNeil, "In Desperately Poor Rwanda, Most Have Health Insurance," *The New York Times*, June 14, 2010.

<sup>123</sup> Donald G. McNeil, "Rwanda's Health Care Success Story," *The New York Times*, February 4, 2013.

<sup>124</sup> This name was taken from the Treatment and Research of AIDS Centre (TRAC) division of Rwanda's Ministry of Health.

<sup>125</sup> PEPFAR, "TRACnet enhances monitoring of ART scale-up," *The United States' Presidents Emergency Plan for Aids Relief*, February 2006, <http://www.pepfar.gov/press/84654.htm> (accessed March 2, 2013); Allison Veen, "Rwanda: TRACnet Mobile Health Information System," *New Media and Development Communication*, <http://www.columbia.edu/itc/sipa/nelson/newmediadev/Health.html> (accessed March 2, 2013); Sabin Nsanzimana, et al., "Cell Phone-Based and Internet-Based Monitoring and Evaluation of



programs to facilitate the economic recovery of the country. One, called the e-Soko project,<sup>126</sup> enables farmers to better negotiate fair prices for their crops. When farmers text the name of a particular agricultural commodity, such as *cassava*, to the service, they receive an instant response citing the item's current market value price. They can then meet the offers of crop traders with fair counter offers that are informed with immediate information.<sup>127</sup>

The Rwandan government has also enacted a number of educational reforms. Rwandan children now have access to nine years of free, basic education, with plans to progressively expand the system to include the completion of secondary school—a full twelve years. Before the Genocide, all Rwandans were required to pay often prohibitive fees so that their children could attend school. The percentage of students finishing primary school who enter secondary school has increased from 58.3% in 2005 to 95% in 2010. These changes have allowed greater access to primary education for the country's poor.<sup>128</sup> Rwanda has over thirty institutions of higher learning, with the most prestigious, the National University in Butare, currently enrolling twelve thousand students. The number and proportion of female students attaining higher education has also decidedly

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the National Antiretroviral Treatment Program During Rapid Scale-Up in Rwanda: TRACnet, 2004–2010," *Journal of Acquired Immune Deficiency Syndromes* 59, no. 2 (2012): 17–33.

<sup>126</sup> The name of this project, "e-Soko," is a play on the Kinyarwanda word for market, *isoko*, pronounced the same way.

<sup>127</sup> John Vrakas, "From Genocide to 3G: Innovations in Rwanda," *Harvard Kennedy School Review*, 2012: 84.

<sup>128</sup> Katrin Park, "Rwanda's reforms boost progress on school enrolment," *United Nations Development Programme: Newsroom*, May 10, 2010, <http://content.undp.org/go/newsroom/2010/may/100507-rwanda-education.en> (accessed March 2, 2013).

increased, up 15% in the five years from 2005 to 2010 alone. Rwanda cites these achievements as measures of its success, recovery, and reconciliation.<sup>129</sup>

### **Re-Education, Propaganda, and Performance in the “New Rwanda”**

The government is proud of these and other indicators of societal progress. It has launched a multifaceted propaganda campaign to spread the idea of the country’s recovery and advancement to its own people and international observers, including aid donors, potential aid donors, politically powerful states, and potential tourists. The narratives and attached symbolisms of Genocide recovery have permeated government-sponsored newspapers, advertisements, videos, and programs. The government of Rwanda also instituted several mandatory educational programs to ensure that Rwandans accept and propagate its post-Genocide accomplishments.

One educational program, *ingando*, is composed of “solidarity camps” aimed at re-educating Rwandan students, politicians, community leaders, and ex-soldiers and combatants with carefully crafted rhetoric. Kagame’s government uses *ingando* as a way “to plant the seeds of reconciliation, and to disseminate pro-RPF ideology through political indoctrination.”<sup>130</sup> Initially, the *ingando* solidarity camps were designed to engage former Tutsi refugees in the government’s narratives of reconciliation and recovery, though they have evolved and expanded. The *ingando* programs can last from several days to several months and are in theory compulsory for all ex-soldiers and ex-combatants. Upon completion of *ingando*, members of the newly “demilitarized” population are given aid packages and allowed to reintegrate into civilian life.

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<sup>129</sup> Ministry of Disaster Management and Refugee Affairs, *An Overview of Progress Towards the Social and Economic Development of Rwanda*, (Kigali: The Republic of Rwanda, 2011), 6-7.

<sup>130</sup> Mgbako, “Ingando Solidarity Camps,” 202.

Rwandan secondary school graduates also participate in two-month long *ingando* solidarity camps before beginning their time at university. In these camps, people study subjects like the “Achievements of the Government” and “The Dignity of the Banyarwanda.” *Banyarwanda* translates as “people who come from Rwanda,” and is used to describe people of both Hutu and Tutsi origins. Its use here reflects the government’s efforts to move beyond the country’s historical ethnic divisions and promote national unity. Ethnic divisions and identities are presented as colonially-created divisive myths. The camps focus, instead, on the organic oneness and homogeneity of Rwandans under Kagame’s leadership. For students, these *ingando* camps are an opportunity for the government to “create a generation of RPF loyalists,” according to Chi Mgbako.<sup>131</sup> By targeting its educated youth—those who will be responsible for Rwanda’s future—the government hopes to convince Rwandans that Rwanda is on the road to recovery, that its progress has been great, and that progress and recovery are to be attributed to the efforts and leadership of the ruling government.<sup>132</sup>

Rwandan refugees who repatriate must participate in similar programs. Rwanda’s Ministry of Disaster Management and Refugee Affairs (MIDIMAR) released a statement in January 2013 announcing that effective immediately all returning refugees must participate in new “civic education” programs and involvement in these programs is *required* for starting their new life in Rwanda. According to MIDIMAR, the purpose of these government programs is to provide returnees with “relevant information about positive changes regarding developmental programs and social welfare of Rwandans,”

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<sup>131</sup> Mgbako, “Ingando Solidarity Camps,” 217.

<sup>132</sup> See Mgbako, “Ingando Solidarity Camps,” 203, 217; Andrea Purdeková, *Rwanda's Ingando Camps: Liminality and the Reproduction of Power*, Working Paper (Oxford: Refugee Studies Center, University of Oxford, 2011), 38-40; Tim Davis, “Rwanda: Ingando camps a ‘government tool of social engineering.’” *NGO News Africa*, October 6, 2011.

and to introduce returnees to “the overview of national values.”<sup>133</sup> These camps and programs are intended to reshape and redirect the subjectivities, feelings, and public discourses of Rwandans. They also plant and reinforce the notion of a government-driven Genocide recovery and the importance of this particular government for stability and continued successes in the country.

**Figure 3: *Ingando* Solidarity Camps**<sup>134</sup>



Here, post-secondary school students participate in military training activities during a three-month long *ingando* solidarity camp in Nkumba, Rwanda. This photo was taken by a *New Times* staff member who attended the camp's training closure ceremonies.

The government also mandates celebration of several holidays remembering Genocide and marking the country's recovery processes. During Genocide Commemoration Week, which begins on 7 April, the anniversary of the start of the 1994 Genocide, the country enters a period of nation-wide public mourning. Citizens participate in events like candlelight vigils, walks, speeches, visits to memorials, and *required* daily meetings where government-selected speakers lecture on the origins of Genocide and the country's recovery successes.<sup>135</sup> The events of the week are severely

<sup>133</sup> Ministry of Disaster Management and Refugee Affairs, *Rwandan returnees to undergo civic education trainings*, (Kigali: The Republic of Rwanda, 2013).

<sup>134</sup> Bonny Mukonbozi, "600 students complete ingando," *The New Times*, December 12, 2009.

<sup>135</sup> Jean de la Croix Tabaro, "Genocide commemoration week taken to village level," *The New Times*, February 8, 2013; Agnes Binagwaho, "Reflections on the Genocide commemoration week," *The New Times*, April 16, 2012.

traumatizing to many Rwandans, who often break down or experience vivid flashbacks. The Ministry of Health places ambulances and mental health professionals on location at all of the week's major commemoration activities, to assist those Rwandans who require counseling or hospitalization. The act of public mourning, of collective commemoration of the atrocities of 1994, can be incredibly distressing.<sup>136</sup> Later in the year, to mark the end of the Genocide and the triumphs of Kagame's Rwandan Patriotic Front, the country celebrates Liberation Day. Speeches, dances, and other remembrance acts are held throughout the capital.<sup>137</sup> While in Kigali for the celebration of Rwanda's 2012 Liberation Day, I, along with everyone else, was expected to attend the day's events. Those who were absent were publicly chastised by their neighbors, bosses, or families.

The Rwandan government projections of "progress" are not only meant for its citizens. Kagame has also crafted a carefully controlled narrative of "Genocide and recovery" for dissemination to the international community. His actions are largely financially motivated since the government relies heavily on foreign aid since the 1994 Genocide: in the years immediately following the massacres, overseas development assistance accounted for over 95% of the country's GDP.<sup>138</sup> Nearly nineteen years later, Rwanda continues to be aid-dependent, as foreign aid from countries such as India, Belgium, the Netherlands, China, and the United States still constitutes about eighteen

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<sup>136</sup> Ian Palmer and Nsanzumuhire Firmin, "Mental health in post-genocide Rwanda," *International Psychiatry* 8, no. 4 (November 2011): 86-87; Moses Gahigi, "Over 400 received trauma counseling during Genocide commemoration week," *The New Times*, May 3, 2009; *The Independent*, "A Week of Commemoration: 1994 Rwanda Genocide," April 7, 2010; Rachel Ibreck, "The politics of mourning: Survivor contributions to memorials in post-genocide Rwanda," *Memory Studies* 3, no. 4 (2010): 337-338.

<sup>137</sup> Sunny Ntayombya, "Look around and feel proud to be Rwandan," *The New Times*, July 6, 2011; Frank Kanyesigye, "What Liberation Day means to me," *The New Times*, July 5, 2011.

<sup>138</sup> Ezemenari, Kebede and Lahiri, *The Fiscal Impact of Foreign Aid in Rwanda*, "1, 9.

percent of the country's budget.<sup>139</sup> Agricultural, health, and infrastructure initiatives continue to receive the highest proportions of foreign aid, as indicated by *Appendix C: Top Twenty Foreign Aid Donors to Rwanda (Loans/Grants), 2010-2011*.<sup>140</sup>

The government markets its discourses of progress and recovery to rich, powerful donor nations and to the surrounding East African Community member countries through targeted tourism marketing and advertising campaigns. The country's latest government tourism video, marketed through the its tourism twitter handle, @TravelRwanda,<sup>141</sup> and posted on YouTube, begins with slow shots of perfectly-manicured hillsides, the beautiful great-lakes coastlines, and Rwandans dressed in traditional clothing enthusiastically drumming or dancing. The next minute or two of the video feature Rwandans enjoying two of the country's more popular beers, Primus and Mutzig, while lounging on the beach or dancing at a nightclub. White foreigners follow a friendly Rwandan guide through the jungle, looking for gorillas. Most of the rest of the film is comprised of shots of hillsides or wildlife, with quick, periodic returns to bustling downtown Kigali throughout. The video provides a brief view of Rwanda's main Genocide museum in Gisozi—proof perhaps, that the new Rwanda has come to terms with its past, memorialized it, and moved on. Upbeat local music plays over the entire ten minutes of the YouTube video.<sup>142</sup> This video and others like it project Rwanda as the

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<sup>139</sup> International Monetary Fund, *Rwanda: Fourth Review Under the Policy Support Instrument and Request for Modification of Assessment Criteria--Staff Report; Press Release* (Washington, D.C.: IMF, 2012), 7.

<sup>140</sup> Ministry of Finance and Economic Planning, *National Budget: Revised 2010/2011 State Expenditure by Budget Agency and Economic Categories* (Kigali: The Government of Rwanda, 2011).

<sup>141</sup> Visit the Twitter page at <https://twitter.com/TravelRwanda>; For the video, see The Republic of Rwanda, "Rwanda Tourism Video 2012," *YouTube*, January 24, 2013, <http://www.youtube.com/watch?v=uCZ5AgG7V3k> (accessed February 25, 2013).

<sup>142</sup> The Republic of Rwanda, "Rwanda Tourism Video 2012."

government wishes it to be viewed from the outside: beautiful, happy, developed, and recovered.

Dance is also an important symbolic and embodied mechanism for showcasing recovery in Rwanda. The Rwandan national dance, *intore*, was traditionally an expression of Tutsi ethnic identity. Today, it is a war dance that tells the history of Rwanda, including the Genocide and the country's subsequent pursuit of unity. It is often performed for tourists in the National Museum of Butare.<sup>143</sup> I have seen *intore* performances in high schools and universities, in government-organized "reconciliation villages," and during several Catholic masses in one of Kigali's largest churches, Saint Michael. The dance begins with the women, who enter the performance area in lines. They dance with their arms raised above their heads, a symbol of the horned cows highly valued as symbols of wealth in rural Rwanda. Then the men enter, barefooted and wearing grass wigs, and re-enact a battle. The dance ends with the men from both sides of the battle coming together to embrace.

Much of the country's development efforts are organized under the Vision2020 heading, a set of societal goals and targets that the government hopes to achieve by the year 2020. To showcase these goals and the country's apparent progress, the government has released a series of videos featuring short interviews with government officials and regular citizens. These videos are published on the government's YouTube channel, and can be viewed worldwide. Some interviews are in English, and those that are not have English subtitles. In a country where 90% of the population speaks Kinyarwanda, and

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<sup>143</sup> Julius Adekunle, *Culture and Customs of Rwanda* (Westport, CT: Greenwood Press, 2007), 141-142.

only the young, educated elite have a working command of English,<sup>144</sup> this is clearly an effort to address English-speaking audiences, particularly in the United States and Europe, as well as other members of the East African Community, an organization which Rwanda has only recently joined.<sup>145</sup> In one video, entitled “*Kudatezuka ku Ntego – A Journey of Resilience*,” several Rwandans share their views on the change the country has undergone since the 1994 Genocide. They all view the recovery efforts as successful. One man who appears to be a security officer claims, “Despite our dark times yesterday, today we enjoy peace and prosperity.” A middle-aged shop owner echoes his view, saying, “the progress in the last eighteen years proves that there can only be more accomplishments in the years to come. There will no longer be ignorance.”<sup>146</sup> In each video, the government is credited for this progress and recovery and Rwandans are depicted as both appreciative and indebted. As one man, shown standing in front of his newly successful brick-making business, says, “I am grateful to the government for the good leadership and development.”<sup>147</sup>

### **Hidden Truths and Realities in Post-Genocide Rwanda**

Some former refugees I interviewed, those who have returned to Rwanda, agree with the sentiment that the situation in Rwanda has changed fundamentally, and that it is safe for refugees to return and resettle. Cessation does not come into full effect until July

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<sup>144</sup> Izabella Steflja, “The Costs and Consequences of Rwanda’s Shift in Language Policy,” *Africa Initiative*, May 31, 2012, <http://www.africaportal.org/articles/2012/05/31/costs-and-consequences-rwanda%E2%80%99s-shift-language-policy> (accessed February 23, 2013).

<sup>145</sup> The East African Community, or EAC, is a regional intergovernmental organization comprised of five contiguous nations: Rwanda, Burundi, Kenya, Tanzania, and Uganda. Rwanda became a full member of the union in 2007. See East African Community, *The East African Community: One people, one destiny.*, 2013, <http://www.eac.int/index.php> (accessed February 23, 2013).

<sup>146</sup> The Republic of Rwanda, “Kudatezuka ku Ntego - A Journey of Resilience,” *YouTube*, July 2, 2012, <http://www.youtube.com/watch?v=-BzY3ZTgPyo> (accessed February 8, 2013).

<sup>147</sup> The Republic of Rwanda, “Rwanda Vision 2020.”



2013. Current returnees, therefore, have repatriated either independently of UNHCR laws or as a result of the intensifying efforts of the Rwandan government and asylum countries to promote voluntary repatriation before cessation comes into effect. These efforts, part of the United Nations' "comprehensive strategy" for the termination of Rwanda's refugee crisis, include publishing and distributing leaflets describing cessation and the current conditions in Rwanda; "go-and-see"/"come-and-tell" trips, where refugees are brought back to Rwanda for short, provisional visits; and meetings and discussions inside the camps between refugees and Rwandan government officials. Over three million Rwandan refugees have repatriated since the 1994 Genocide.<sup>148</sup>

Of the returnees I interviewed, Patrick and Pascal were particularly adamant that Rwanda has not only changed for the better, but that the country owes a great debt of gratitude to President Paul Kagame for driving these changes. Patrick, who returned to Rwanda in 1996 after his family had lived in exile for over two decades, is proud of Rwanda and the changes he has seen. He lauds his president's actions, boasting in our conversation, "Once His Excellency Paul Kagame saved our people, we could return. He liberated Rwanda and ended the violence of the Hutu. Now it is safe. We are happy here." Patrick continued describing Kagame in such favorable terms, attributing to him an almost superhuman list of qualities and accomplishments. He repeatedly used the words "saved" and "liberated" to describe the RPF victory that ended the 1994 Genocide.

Pascal feels a similar sense of pride in the way Rwanda has changed since Genocide, echoing Patrick's descriptions of Kagame. Pascal insists that Kagame "saved" Rwanda and that it was now safe. Pascal states matter-of-factly that "His Excellency Paul Kagame liberated our country and we returned home." Usage of the honorific "His

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<sup>148</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 10-11.

Excellency,” which I heard commonly throughout the capital and in my interviews, suggests a kind of idol worship or monarchic relationship to President Kagame. Pascal describes in great detail the kinds of changes he sees in the country. He describes the rebuilding and development of infrastructure—roads, hospitals, tall buildings—again using the widespread language of the ruling Kagame government, insisting, “the leadership of Rwanda has a great mind for development. That is what they are working for. Someday Kigali will be like New York City, can’t you see that?” As we continued to talk in Pascal’s office, a primary school near downtown Kigali (*umuji*), he repeatedly gestured to the city view outside his window, exclaiming, “We have made much progress. Great progress. We have developed. See! Today we are an example for Africa.”

Patrick also uses this idea of Rwanda as a country others can model to talk about change and advancement: “We are very advanced, and all of Africa can now look to us.” Returnees hold on to the thought, which I heard often in casual conversation as well as in more formal interviews, that Rwanda today has moved past the shame of Genocide and is a place of which Rwandans can be proud. Patrick insists that Rwanda has been completely reconciled by joking about the high number of foreigners, or *abazungu*,<sup>149</sup> living in working in Rwanda’s capital. He laughed as he asked me, “Would you come to Rwanda if we were not reconciled? You are *muzungu*—of course you would leave if there was trouble. But here you are.” His description of Rwanda as *reconciled* suggests

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<sup>149</sup> *Umuzungu* or *muzungu*, written *abazungu* in the plural, is the Kinyarwanda word for “foreigner,” “outsider,” or “white person.” It is also used as a more general label for those perceived to be well-off or successful, especially in reference to those who became well-off at the expense of others or those who are reluctant to share their successes with others. While in Kigali, I regularly witnessed less fortunate men and women on the street calling out “*muzungu!*” to well-dressed Rwandan businesspeople as a way to (guiltily) convince them to hand over some spare change.

his belief that the country's change has moved beyond the superficialities of infrastructures or programs, and instead reflects a deep, meaningful transformation.

During our discussions, I asked Patrick and Pascal to discuss why they thought other refugees might be reluctant to return to Rwanda, especially if the country was as reformed as they described. Patrick rationalized the actions of those who continue to hold on to their refugee status by saying, "They must have a reason to stay away. It is possible that reason is ignorance. Maybe they have been away too long and forgotten their home. Some people do not return because they are the killers." Pascal similarly suggested that some of the refugees who haven't returned have done something wrong: "Those people who left after 1994, they think Rwanda is still the same. They think there has been no change. But look! Every day there are changes. It is so different now. Those who are afraid, they are the guilty." For both men, Rwanda is a changed country and a safe place for all except those who fear justice. Importantly, both Patrick and Pascal are of Tutsi origin. Moreover, Patrick had never before lived in Rwanda since he was born to parents from the 1959 wave of refugees and Pascal had left as a young refugee in 1973. Thus neither lived in Rwanda during or immediately before the Genocide. The nature of transformation and change they perceive must be understood within contexts of personal and larger histories that produced their refugee experiences and their experiences of "return."

Pascal and Patrick's views are not shared by those refugees who have yet to return to Rwanda. Just one solitary refugee in Nakivaale, Marcel, loudly praised Kagame for being a wonderful president, describing the "progress" the society has made and how "advanced" it is—but this was only after he had looked furtively around the camp and

whispered to me “*Il y a des espions ici*” (“There are spies here”). His fear and feelings of being watched reflect a collective sense of being under surveillance among the Rwandan Nakivaale refugees. Their fears are born of experience: the Rwandan government has begun asserting its presence in the camps, and on at least one occasion, Rwandan government forces entered the settlement, violently forced refugees and asylum seekers onto trucks, and drove them back to Rwanda against their will. Two men were killed in this 2010 “police operation.”<sup>150</sup> Since 1994, government military forces have conducted massacres, raids, rapes, and murders against Rwandan refugees living in the eastern parts of the Democratic Republic of the Congo (which was called Zaire between 1971 and 1997). After the Genocide, many Rwandans—mostly Hutu—fled to the country’s western neighbor where they lived in crowded refugee camps. Over the course of several years, the Rwandan government conducted violent raids on these camps, notably in 1996 and 1998. According to a United Nations Security Council report describing the conflict, “the killings ... by the RPA constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu refugees.” The report contends that “some of the killings [in refugee camps] may constitute Genocide.”<sup>151</sup> These attacks were attempts by the RPF to force Hutu refugees to repatriate, since the Rwandan government accuses many of them of committing genocidal crimes.<sup>152</sup>

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<sup>150</sup> United Nations High Commissioner for Refugees, “UN agency deplores forced returns of Rwandan refugees from Uganda,” *United Nations News Centre*, July 16, 2010, <http://www.un.org/apps/news/story.asp?NewsID=35339&Cr=uganda&Cr1=#.UTQzDLvLjd4> (accessed March 3, 2013).

<sup>151</sup> United Nations Security Council, *Report of the Investigative Team Charged with Investigating Serious Violations of Human Rights and International Humanitarian Law in the Democratic Republic of Congo* (United Nations, 1998), 2.

<sup>152</sup> Mgbako, “Ingando Solidarity Camps,” 205-206.

Several refugees insisted in no uncertain terms that Rwanda hasn't changed in substantive ways. Didier, a farmer who fled immediately after Genocide, told me how Rwanda today is only different for some: "The country has only changed if you are Tutsi. For us, the Hutu, it is no different. We are so many but we cannot speak." For him, Rwanda remains dangerous because he is not a member of Kagame's party or ethnic group. Didier alludes to a practice of silence-keeping, of restricted truth-telling, so common in Rwanda that it has been given a name—*ceceka*. The Hutu must keep their silence, because their stories will not be believed or accepted. Their identity makes it dangerous for them to speak. Emmanuel, another Nakivaale refugee, shared his fears of the current government and its policies: "They tell us to go back, but what we ran from is still there. They killed our family, destroyed our relatives, so how can we go back?" When I asked who "they" are, he responded, "They are the winners, the victorious. The Tutsi RPF. They have committed crimes." Didier and Emmanuel believe that Rwandans who do not accept the government's one-sided and neatly-formulated narrative of Genocide—which paints all Tutsi as blameless victims, the RPF as sinless saviors, and most Hutu as vicious killers—are in danger.

Grace, a middle-aged mother of six, lived in Nakivaale with her husband until he returned to Rwanda to check the living conditions there. He had promised to send for her and their children if it was safe for them to join him. Five years later, she has heard nothing from him. As she puts it, "if things are good in Rwanda, he will come for me. I am still waiting." Today, she suspects he has been arrested, and perhaps tortured or killed, by the government. In her mind Rwanda remains unsafe until she hears otherwise from her husband. For Emmanuel, Didier, and Grace, Rwanda has not undergone the

“fundamental and durable” changes necessary for them to return—it is still a very dangerous place.

Among the refugees that I spoke with, a sense of unresolved and continuing injustices ranked high in explaining their feelings that the country has *not* undergone the changes necessary for the invocation of cessation. Their understandings stem from the Rwandan government’s denial of past wrongdoings, the authoritarian nature of the current regime, and the unwarranted accusations and persecutions of Rwandan citizens. Emmanuel talked about mass graves, which he described as the “graves of those people Kagame has ‘not killed,’” as a particular source of fear and his reluctance to return. Jean-Pierre, a teacher, described these hidden graves as well: “*les soldats de RPA, ils aiment cacher les morts. Comme si ça n’est jamais passé*” (“the RPF soldiers, they like to hide the dead. Like it never happened”). When I questioned the possibility and motivations behind such actions, coming from a government that publicly proclaims the importance of truth-seeking, he met my doubts with a simple question—“*Si tu as tué quelqu’un, dirais-tu ?*” (“If you had killed someone, would you tell?”).

A number of transnational rights organizations have questioned Rwanda’s Genocide recovery and whether Rwanda truly is safe for all Rwandans, calling attention to evidence of a dangerous political climate. In response to the UNHCR’s recommendation of cessation, Amnesty International released several reports to relevant refugee asylum countries advising them to oppose cessation. The reports urge these countries not to rely on either the United Nations’ or Rwanda’s reports of contemporary country conditions, but instead to conduct their own investigations, paying special attention to four broadly important matters:

1. Adherence to fair trial standards;
2. Mechanisms for the respect and protection of human rights;
3. Freedom of association and peaceful assembly, including tolerating criticism and dissent;
4. Ability of human rights organizations to monitor violations and advocate for remedies.<sup>153</sup>

The reports outline some of Amnesty International's "serious concerns" regarding the Rwandan government's reports of changes and the inappropriateness of invoking the cessation clauses at this time. The ruling government has institutionalized restrictions on expression, speech, and association with vague and overbroad laws focused on proponents of "genocide ideology." The government's interpretation of such laws "criminalizes dissenting voices and speech permitted by international conventions."<sup>154</sup>

These laws force Rwandans to censor themselves and conceal the truths of their Genocide experiences. They also intimidate Rwandans into hiding their dissent or dissatisfaction in relation to post-Genocide change and recovery efforts in Rwanda.<sup>155</sup>

The Rwandan military, or Rwanda Patriotic Army—a division of the RPF ruling party—has been responsible for enforced disappearances, torture, unlawful detention, detention in secret or concealed locations, and other forms of mistreatment of civilians suspected of

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<sup>153</sup> Amnesty International, *Memorandum to the Government of the Democratic Republic of Congo about the Cessation of Refugee Protection for Rwandans*, (London: Amnesty International Publications, 2011), 7; Amnesty International, *Memorandum to the Government of Uganda about the Cessation of Refugee Protection for Rwandans* (London: Amnesty International Publications, 2011), 8.

<sup>154</sup> Amnesty International, *Safer to Stay Silent*, 20.

<sup>155</sup> *Ibid.*, 8.

threatening national security. Amnesty International argues that these behaviors render a blanket cessation of refugee status as premature, dangerous, and unlawful.<sup>156</sup>

Similarly, the Fahamu Refugee Programme, a UK-based transnational refugee advocacy organization that is funded by the Harry Frank Guggenheim Foundation,<sup>157</sup> describes Rwanda's overall political situation as "repressive, fragile, and unstable," with an environment restricting speech, debate, and criticism of the government. The organization suggests that Rwanda has a capacity to return very quickly to frightening levels of violence.<sup>158</sup> As the RPF continues to tighten its control over voices of political dissent and opposition, and as the government continues to deny its opponents any legitimate legal space for criticism, other observers argue that it is increasingly likely that Kagame will intensify violence to silence dissidents. A civil war, popular uprisings, a proxy war in the DRC, or an escalating and disproportionate security response from the government are all real possibilities in Rwanda.<sup>159</sup>

Despite extensive evidence to the contrary, the government of Rwanda has emphatically and systematically denied responsibility for crimes against humanity that occurred either during or after the Genocide. The legitimacy of President Kagame's rule stems from his party's role in *ending* the Genocide, not participating in it. According to Filip Reyntjens, "the 1994 genocide has become an ideological weapon allowing the RPF to acquire and maintain victim status and, as a perceived form of compensation, to enjoy

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<sup>156</sup> See Amnesty International, *Memorandum to the Government of Uganda*, 7-9; Amnesty International, *Memorandum to the Government of the Democratic Republic of Congo*, 6-9; Amnesty International, *Rwanda--Shrouded in Secrecy*.

<sup>157</sup> Fahamu Refugee Programme, "About Us: Who We Are," *Fahamu Refugee Programme*, 2012, <http://www.refugeelegalaidinformation.org/about-us-0> (accessed April 13, 2013).

<sup>158</sup> Fahamu Refugee Programme, *Rwanda: Cessation of Refugee Status is Unwarranted: Memorandum of Fact and Law* (The Fahamu Refugee Programme, 2011), 7.

<sup>159</sup> Jennifer G. Cooke, *Rwanda: Assessing Risks to Stability*, (Washington, D.C.: Center for Strategic and International Studies, 2011), 18-19.



complete immunity.”<sup>160</sup> Kagame and his party are also culpable in the Genocide, however. Tens of thousands of Rwandan civilians—by some estimates, as many as one hundred thousand—were killed by Kagame’s RPF during the hundred days of terror. In 1994, Rwandans experienced both civil war and genocide, with people of both ethnicities as perpetrators and victims.<sup>161</sup>

After 1994, RPF crimes continued, partially obscured by the lingering fear and horror of Genocide and the perceived heroics of Kagame’s party. The army, no longer a rebel group but now a government-affiliated military, carried out massacres in the Kibeho IDP camp in April of 1995. From October 1997 to January 1998, an estimated 10,000 unarmed civilians were killed in Rwanda by government forces. Most of these murders took place in Gisenyi, a prefecture in northwest Rwanda. Men, women, children, and the elderly were victims of the violence. Whole families were murdered while trying to flee or huddled together, hidden in their homes. A handful of RPF soldiers and officers responsible for these reprisal killings were later tried in military courts. Most were found not guilty. In one instance, four officers were sentenced to 28 months in prison—not for the deaths of over a hundred unarmed civilians, for which they were responsible, but for “failing to assist persons in danger.” These “persons in danger” are the same ones that they murdered.<sup>162</sup>

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<sup>160</sup> Filip Reyntjens, "Rwanda, Ten Years On: From Genocide to Dictatorship," *African Affairs*, 2004: 199. For further discussion of the end of the Genocide and processes by which the RPF established and legitimized its rule, see David S. McDonough, "From Guerrillas to Government: post-conflict stability in Liberia, Uganda and Rwanda," *Third World Quarterly* 29, no. 2 (2008): 368-370.

<sup>161</sup> Filip Reyntjens, "Rwanda, Ten Years On," 194.

<sup>162</sup> *Ibid.*, 194-195; Amnesty International, *Rwanda: Civilians trapped in armed conflict*, (Amnesty International Publications, 1997), 14-15.

Three legal institutional mechanisms have emerged as the foundation of Rwanda's pursuit of post-Genocide of justice and reconciliation: the national court system, modified traditional justice in the form of *gacaca*, and the International Criminal Tribunal for Rwanda, or ICTR. Certain aspects of these mechanisms are cause for concern. The community-based *gacaca* courts and the national court system are perceived as a kind of victors' justice that is "overwhelmingly Tutsi."<sup>163</sup> The perception from both Hutu and Tutsi is that perpetrators must be *punished* in order for reconciliation to occur.<sup>164</sup> Judges in the *gacaca* courts as well as the national court system are subject to control and influence of the RPF, and risk persecution if they publicly espouse or acknowledge views or truths different from those of the RPF government.<sup>165</sup> In the *gacaca* court system, Hutu whose relatives were killed or property destroyed by the RPF are not allowed to raise their cases, and Hutu who were persecuted are often afraid they won't have a chance to defend themselves.<sup>166</sup>

The ICTR is flawed as well. It is designed to pursue a slow, expensive justice, and only for a few, high-level organizers.<sup>167</sup> This court was created through a resolution of the United Nations Security Council, passed in November of 1994. Located in Arusha, Tanzania, the ICTR is run by the United Nations and its member states.<sup>168</sup> Its first trials

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<sup>163</sup> Peter Uvin, "Difficult choices in the new post-conflict agenda: the international community in Rwanda after the genocide," *Third World Quarterly* 22, no. 2 (2001): 183.

<sup>164</sup> Eugenia Zorbas, "What does reconciliation after genocide mean? Public transcripts and hidden transcripts in post-genocide Rwanda," *Journal of Genocide Research* 11, no. 1 (2008): 129-131.

<sup>165</sup> Human Rights Watch, *Law and Reality: Progress in Judicial Reform in Rwanda*, (New York: Human Rights Watch, 2008), 19-21.

<sup>166</sup> Human Rights Watch, *Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts*, (New York: Human Rights Watch, 2011), 84-85.

<sup>167</sup> V. Peskin, "The Struggle to Create the International Criminal Tribunal for Rwanda," in *International Justice in Rwanda and the Balkans* (New York: Cambridge University Press, 2008).

<sup>168</sup> Jean-Marie Kamatali, "From the ICTR to ICC: Learning from the ICTR Experience in Bringing Justice to Rwandans," *New England Journal of International and Comparative Law* 12, no. 1 (2005): 90-93.

did not begin until 1997, three years after the Genocide. By 2005, it had tried and judged fewer than thirty *genocidaires* or suspected *genocidaires*, and had 26 ongoing trials.<sup>169</sup> Limited resources and the international requirements of extensive, formalized investigations result in punishments that are realized very slowly, and sometimes not at all.<sup>170</sup>

The refugees of Nakivaale voice particular concern that government-perpetrated injustices have intensified through *gacaca*. Emmanuel says that these courts heavily favored the Tutsi and those allied with the RPF, and often wrongly victimize Hutu, saying, “anyone can stand up and say anything, and if they are Tutsi they will be believed. If they are Hutu they must keep their silence.” Clément, the priest, expressed a similar view of *gacaca*: Rwanda has not changed or recovered and *gacaca* has been detrimental and one-sided rather than helpful. But in his mind, this is not the biggest challenge facing potential returnees. As he put it,

*Mais le premier problème, le plus grand problème, c'est que nous avons peur de la vérité. Nous avons peur d'un autre génocide, et qu'est qu'on peut faire ? Rien. Rien du tout. Nous pouvons pas parler honnêtement ou franchement parce qu'il y a tellement d'idées, de histoires, et de crimes que son Excellence refuse de reconnaître.*

(But the first problem, the biggest problem, is that we are afraid of the truth. We are afraid of another genocide, and what can we do? Nothing. Nothing at all. We cannot speak honestly or openly because there are so many ideas, stories, and crimes that His Excellency refuses to recognize.)

Many refugees believe that conditions in Rwanda are similar to those that led to massacre and genocide: rule is repressive and unaccountable; the environment is not hospitable to honest discussion and debate; and punishment based on collective ethnic- or

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<sup>169</sup> Erik Mose, "The ICTR: Experiences and Challenges," *New England Journal of International and Contemporary Law* 12, no. 1 (2005): 2-3.

<sup>170</sup> Todd Howland and William Calathes, "The U.N.'s International Criminal Tribunal, Is It Justice or Jingoism for Rwanda? A Call for Transformation," *The Virginia Journal of International Law* 39 (1998): 151.

ideologically-based accusations of guilt dominates in the “new Rwanda.” While this Rwanda is, indeed, different and new, it retains many of the “old” problems in updated institutional and discursive forms. Refugees worry about the impact of cessation on their lives. Didier, a farmer who left immediately after genocide, told me, “they have falsely accused us. That is the same as if I was guilty. If I go back I will have great shame and I will be punished.” Jean-Pierre lamented the fact that, in his mind, the Rwandan government views all those reluctant to return as *genocidaires* who must be punished.

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Rwanda has changed in several positive ways since the 1994 Genocide, according to independent analysts and scholars. But the ruling government is also responsible for past and present discourses, institutions, and practices of repression and violence. Military forces go largely unpunished for mass atrocities and human rights violations. The government refuses to accept responsibility for the massacre of thousands of unarmed civilians. Kagame’s regime is intolerant of dissent and political opposition. In the views of many Rwandan refugees and independent analysts and scholars, there is still neither peace nor justice in Rwanda. Refugees have very real reasons to fear forced repatriation through application of the cessation clauses. Clément, thinking of the country that was once his and the struggles it continues to face, questioned the ability of the country to recover without justice: “*Comment est-ce qu’on peut guérir sans paix? Comment est-ce qu’on peut trouver la paix si on n’a pas de justice?*” (“How can we heal without peace? How can we find peace if we have no justice?”) Rebuilding infrastructure, economic and health indicators, and the success of some social programs are not the same as justice and do not resolve the political and personal factors that makes him and many other refugees

resist return. If the scheduled cessation forces Rwandan refugees to return in July 2013, they will be forced to a “home” that is not particularly hospitable to complex truths, accountability, or reconciliation.

## Conclusion

*“I am Rwandan; I had to come back. As a refugee I had no home, no opportunity, no future. I walked and I worked but inside I was dead. Now, here, I am alive again. I am home.”*

~Claire, returnee, Kigali

*“The man who killed my children is now the leader of Rwanda. How can you tell me the country has changed? I have great fear and small hope [...] every day I wish I will die, so this refugee life can be over. But still, it is better than return.”*

~Antoine, refugee, Nakivaale Refugee Settlement

One evening during the summer I spent researching and interviewing in Rwanda and Uganda, I was relaxing in the living room of my Rwandan home with my host brothers and sisters. We sprawled across the couch and the floor, munching on avocados and drinking warm milk. All eyes were glued to the television—weeknights at 8 o’clock, a Portuguese soap opera plays on Rwandan TV, badly dubbed in French. My Rwandan family follows it religiously. On this night, poor, unsuspecting Miguel was served a glass of poisoned red wine by his jealous wife. His lover walks in some time later and, upon finding his cold, stiff body, frantically begins to dial 911.

Curious, I turned to my sister.

“What’s the number for emergencies here?”

She doesn’t know. Half-jokingly, I chastise her: “Really, you should know it!

What if something happened? Everyone in America knows to call 911!”

She shifted her gaze from the screen to look at me.

“I have no reason to know it,” she said, “There are no killings in Rwanda.”

She paused for a moment, biting her lower lip. “There are no killings in Rwanda,” she tells me again, “not anymore. We have had enough.”

Then she turned back towards the television.

I spent the summer of 2012 interviewing survivors of the 1994 Genocide and its political aftermath. On every street corner, I passed the purple and white banners that proudly proclaimed, “18 years!” Often, I saw people cutting their grass with machetes, the weapon of choice those years ago. But I was, and am, still able to forget—sometimes, for a moment—the fresh, raw, and red nature of the pain and trauma of Genocide for so many Rwandans. The ability to not think about it is an enormous luxury. My default, my normal, does not include this kind of memory, trauma, fear, or sorrow.

Few Rwandans can say the same. Certainly, among the refugees and former refugees I spoke with, there was a constant, pervasive ache of grief, dread, or unease. And yet, in this context, the United Nations High Commissioner for Refugees has decided to invoke its “ceased circumstances” cessation clauses for these Rwandan refugees. Many of them—over one hundred thousand men, women, and children—will be forced to repatriate. Representing a continuing crisis spanning decades of Rwandan history, these refugees fled the country for very real reasons—massacre, Genocide, oppression, persecution—and a large number harbor an intense, deep-seated, and justified fear about their impending forced return to Rwanda. Cessation forces them to return to the source of their suffering.

In its recommendation of cessation, the UNHCR notes that its “ceased circumstances” clauses should only apply to those refugees who fled Rwanda prior to 1999. More recent refugees, many of whose flight was prompted by political persecution from the current government, should not yet be forced to return. All refugees, especially those in who dread repatriation, should be presented with options for local integration,

alternative legal status, or cessation exemption.<sup>171</sup> If lawfully implemented, cessation should therefore exclude many of those with a legitimate and continued fear of Rwanda's current political regime. The result could be a cessation in which some refugees, who have so far avoided return because they lack information about Kagame's post-Genocide Rwanda, or because they lack transportation, or because the process of return seems daunting and un-navigable, are presented with a solution in which Rwanda, the UNHCR, and their country of asylum come together to provide the assistance they need to repatriate. Cessation could be an opportunity for a new start, a chance to reestablish themselves in a stable, healing community of Rwandans. It could be an opportunity to create a real, permanent *home*.

For other refugees—those who remain in exile not due to a lack of opportunity to return, but due to a legitimate fear of what awaits them if they do—the recommendation of cessation comes prematurely. The men and women I spoke with in the Nakivaale Refugee Settlement are deeply afraid that cessation will be applied indiscriminately, and will disregard their often compelling individual fears of repatriation. In Nakivaale, the potential for a blanket application of the clause is high. Not once in my conversations with the settlement's commander, or in my discussions with a member of Uganda's Office of the Prime Minister, which handles refugee affairs, did either man indicate that cessation is not intended to be universal. Most refugees were unaware that the clause had temporal restrictions or that individual exemptions are possible. They see cessation as unavoidable, and as an opportunity for Nakivaale to purge itself of Rwandans. Even Clément, one of the few refugees I spoke with who had substantial knowledge of the cessation clauses and their legal application, suspects that all Nakivaale Rwandans will

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<sup>171</sup> UNHCR, *Implementation of the Comprehensive Strategy*, par. 15-16, 18, 31, 33-37.



be forced to return. Referring to the settlement officials, he told me, “they want Nakivaale to be freed of all Rwandans.” However, the settlement is growing. Many new asylum seekers, mostly from Somalia and South Sudan, are fleeing to Nakivaale, and the settlement could better accommodate these incoming refugees if its current residents repatriated.<sup>172</sup>

But Rwanda will not be truly ready to welcome back all of its refugees until it has embraced a deeper, fuller reconciliation. Real healing will not come from government-dictated policies and programs, nor will it develop as long as individual stories, truths, and fears are hidden by state discourses and narratives. Victims and perpetrators continue to suffer. Perpetrators must accept responsibility for their actions and whatever pain, guilt, or shame comes with it.<sup>173</sup> For Hutu and Tutsi, perpetrator and victim, understanding the past and having the opportunity to recognize and share their personal experiences may help lessen the trauma of Genocide and promote healing.<sup>174</sup> Some have found healing in the church, where they can outwardly and collectively express their pain, hope, or fears through music and prayer.<sup>175</sup> Others have found peace through the arts. Many have discovered that having a creative outlet through which they can build and create something new is therapeutic.<sup>176</sup>

Every Rwandan I spoke to, both in my interviews and informally, insisted that the hope for shared healing and recover in Rwanda, if there was any, lay with its youth. The children, the next generation, the innocent—they are what the future holds. They are

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<sup>172</sup> Interview with Godfred, Deputy Camp Commander, 2011.

<sup>173</sup> Ervin Staud, Laurie Anne Pearlman and Vachel Miller, "Healing the Roots of Genocide in Rwanda," *Peace Review* 15, no. 3 (2003): 288.

<sup>174</sup> *Ibid.*, 290.

<sup>175</sup> Catherine Newhouse, "A Haven for Healing," *Christianity Today* 55, no. 12 (2011): 17-19.

<sup>176</sup> Starr A. Wood, "Making a Wish in Rwanda: The Restoration of Hope," *Affilia: Journal of Women and Social Work* 22, no. 2 (2007): 223.

growing up in a country with a strong education system, a rapidly growing economy, and a developing health care sector. They were born after Genocide. Though the future stability of Rwanda remains precarious, there is a chance that they will never know violence of the scale and intensity that Rwanda saw in 1994. They are the dreamers and the builders of tomorrow, and have the potential to create a Rwanda to which the country's refugees can safely return.

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## **Appendix A: The Cessation Clauses—UNHCR and OAU**

**From the UNHCR 1951 *Convention Relating to the Status of Refugees*, Chapter 1, Article 1(C). “Ceased circumstances” cessation clauses in italics:**

This Convention shall cease to apply to any person falling under the terms of section A if:

- (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
- (2) Having lost his nationality, he has voluntarily re-acquired it; or
- (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (5) *He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;*
- (6) *Being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.*

**From the OAU’s 1967 *Convention Governing the Specific Aspects of Refugee Problems in Africa*, Article 1 (4). “Ceased circumstances” cessation clause in italics:**

This Convention shall cease to apply to any refugee if:

- (a) he has voluntarily re-availed himself of the protection of the country of his nationality, or,
- (b) having lost his nationality, he has voluntarily reacquired it, or,
- (c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality, or,

(d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution, or,

*(e) he can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality, or,*

(f) he has committed a serious nonpolitical crime outside his country of refuge after his admission to that country as a refugee, or,

(g) he has seriously infringed the purposes and objectives of this Convention.

## Appendix B: Full UNHCR and OAU Definitions of “Refugee”

### From the UNHCR 1951 *Convention Relating to the Status of Refugees*, Chapter 1, Article 1

A. For the purposes of the present Convention, the term “refugee” shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B.

(1) For the purposes of this Convention, the words “events occurring before 1 January 1951” in article 1, section A, shall be understood to mean either:

(a) “events occurring in Europe before 1 January 1951”; or

(b) “events occurring in Europe or elsewhere before 1 January 1951”, and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

- (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
- (2) Having lost his nationality, he has voluntarily re-acquired it; or
- (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;
- (6) Being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.



**The UNHCR 1967 *Protocol Relating to the Status of Refugees* removed the temporal restrictions given above:**

Article 1 (2): For the purpose of the present Protocol, the term “refugee” shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words “As a result of events occurring before 1 January 1951 and ...” “and the words”... “a result of such events”, in article 1 A (2) were omitted.

**From the OAU’s 1967 *Convention Governing the Specific Aspects of Refugee Problems in Africa*, Article 1**

1. For the purposes of this Convention, the term "refugee" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.
2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.
3. In the case of a person who has several nationalities, the term "a country of which he is a national" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.
4. This Convention shall cease to apply to any refugee if:
  - (a) he has voluntarily re-availed himself of the protection of the country of his nationality, or,
  - (b) having lost his nationality, he has voluntarily reacquired it, or,
  - (c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality, or,
  - (d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution, or,

- (e) he can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality, or,
  - (f) he has committed a serious nonpolitical crime outside his country of refuge after his admission to that country as a refugee, or,
  - (g) he has seriously infringed the purposes and objectives of this Convention.
5. The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has serious reasons for considering that:
- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
  - (b) he committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
  - (c) he has been guilty of acts contrary to the purposes and principles of the Organization of African Unity;
  - (d) he has been guilty of acts contrary to the purposes and principles of the United Nations.
6. For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

## Appendix C: Top Twenty Foreign Aid Donors to Rwanda (loans plus grants), 2010-2011

Donor	Total aid, by donor (USD)	Government Branch/Ministry	Aid amount by Ministry (USD)	Programs/Projects funded
<b>African Development Bank</b>	38,708,530	Ministry of Infrastructure	18,180,515	Transportation; Water and Sanitation
		Ministry of Agriculture and Animal Resources	17,682,187	Intensification and Development of Sustainable Production Systems
		Ministry of Education	2,845,828	Technical Vocational Education and Training (TVET)
<b>International Development Association (World Bank)</b>	36,363,131	Ministry of Infrastructure	16,960,778	Transportation; Energy
		Ministry of Agriculture and Animal Resources	11,464,306	Intensification and Development of Sustainable Production Systems
		Ministry of Trade and Industry	5,137,038	Promotion of Trade and Industry
		Ministry of Health	1,465,717	Development of National Specialized Reference and Research Systems
		Ministry of Public Service and Labour	1,335,291	Capacity Building
<b>India</b>	28,952,811	Ministry of Infrastructure	28,952,811	Energy
<b>Global Fund</b>	28,359,781	Ministry of Health	28,343,371	Financial Accessibility to Health Services; Diseases Prevention; Diagnosis and Treatment of Diseases
		Office of the Prime Minister	16,409	Child Rights Promotion and Protection
<b>Belgium</b>	23,655,210	Ministry of Agriculture and Animal Resources	8,612,350	Intensification and Development of Sustainable Production Systems; Commodity Chain Production, Horticulture and Agribusiness Development; Institutional Development
		Ministry of Infrastructure	8,031,323	Energy; Water and Sanitation
		Ministry of Health	4,797,824	Development of Sector Institutional Capacity; Geographic Accessibility to Health Services; Development of National Specialized Reference and Research Systems; Diseases Prevention
		Ministry of Public Service and Labour	1,595,187	Capacity Building
		Ministry of Forests and Mines	618,527	Forest Management and Afforestation
<b>Basket Fund</b>	21,009,412	Ministry of Finance and Economic Planning	19,596,655	Efficient Planning, Use of Resources and Budgeting
		Ministry of Health	1,412,756	Development of Sector Institutional Capacity
<b>The Netherlands</b>	16,604,165	Ministry of Infrastructure	7,592,920	Energy; Water and Sanitation
		Ministry of Forestry and Mines	4,807,372	Forest Management and Afforestation
		Ministry of Local Government	3,565,645	Good Governance and Decentralization; Community Development
		Rwandan Supreme Court	638,228	Administration of Justice

<b>International Fund for Agricultural Development</b>	11,188,940	Ministry of Agriculture and Animal Resources	11,188,940	Intensification and Development of Sustainable Production Systems; Commodity Chain Promotion, Horticulture and Agribusiness; Institutional Development
<b>Organization of Petroleum-Exporting Countries (OPEC)</b>	10,221,154	Ministry of Infrastructure	10,221,154	Transportation; Water and Sanitation
<b>European Union</b>	8,313,641	Ministry of Infrastructure	8,313,641	Energy; Housing and Urban Development; Water and Sanitation
<b>Saudi Fund for Development</b>	6,784,758	Ministry of Health	4,576,636	Geographic Accessibility to Health Services
		Ministry of Infrastructure	2,208,122	Energy
<b>China</b>	6,261,389	Ministry of Health	3,406,817	Geographic Accessibility to Health Services
		Ministry of Infrastructure	2,854,572	Transportation
<b>Multi-Donor Trust Fund</b>	5,807,630	Ministry of Finance and Economic Planning	5,807,630	Efficient Planning, Use of Resources and Budgeting; Resource Mobilization
<b>United States</b>	5,010,487	Ministry of Health	3,233,984	Development of Sector Institutional Capacity; Availability of Drugs and Consumables; Development of National Specialized Reference and Research Systems
		Ministry of Trade and Industry	1,776,504	Promotion of Business Support Services and Cooperatives
<b>United Nations Development Programme</b>	4,934,053	Ministry of Environment and Lands	4,539,746	Environment and Climate Management
		Rwandan Supreme Court	223,967	Access to Justice
		Office of the Prime Minister	170,341	Good Governance
<b>Arab Bank for Economic Development in Africa</b>	4,762,841	Ministry of Infrastructure	4,762,841	Transportation; Energy; Water and Sanitation
<b>UNICEF</b>	3,355,196	Ministry of Youth	3,139,431	Youth Mobilization
		Ministry of Infrastructure	215,765	Water and Sanitation
<b>Investment Climate Facility for Africa</b>	2,980,965	Ministry of Trade and Industry	2,350,073	Promotion of Trade and Industry
		Ministry of Infrastructure	630,892	Energy
<b>Korea Fund</b>	2,891,538	Ministry of Infrastructure	2,891,538	Transportation
<b>Department for International Development (United Kingdom)</b>	2,607,477	Ministry of Finance and Economic Planning	1,832,978	Resource Mobilization
		Ministry of Agriculture and Animal Resources	774,499	Institutional Development

Data source: Ministry of Finance and Economic Planning, *National Budget: Annex II-2: Revised 2010/2011: Projects by Ministry and Programme*, (Kigali: The Republic of Rwanda, 2011).

Rwandan Francs (RWF) converted to USD based on 03 March 2013 conversion rates: 1.00RWF=.00157723USD